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STATE OF MISSOURI DOMESTIC VIOLENCE TASK FORCE
PRESIDED OVER BY ATTORNEY GENERAL CHRIS KOSTER

SEPTEMBER 20, 2010
COLUMBIA, MISSOURI

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<p style="text-align: right;">Page 3</p> <p style="text-align: center;">APPEARANCES</p> <p>Attorney General Chris Koster</p> <p>Senator Kurt Schaefer</p> <p>Representative Chris Kelly</p> <p>Representative Stacey Newman</p> <p>Representative Stephen Webber</p> <p>Representative Mary Still</p> <p>Missouri Coalition Against Domestic & Sexual Violence: Colleen Coble</p> <p>Missouri Office of Prosecution Services: Jason Lamb</p>	<p style="text-align: right;">Page 5</p> <p>I promised Colleen Coble, the woman sitting to my right, the executive director of the Missouri Coalition Against Domestic Violence, that I would bring together the entities involved in our state's system for dealing with domestic violence: police, sheriffs, prosecutors, the courts, victim advocates, probation and parole personnel, to take a comprehensive look at our laws and practices with an eye toward making our system work better than it does today.</p> <p>It has been 30 years since Missouri set up its framework for domestic violence laws in our state. Thirty years ago then Attorney General, John Ashcroft, held a similar statewide forum to examine the problem of domestic violence. And while the General Assembly has passed numerous laws related to domestic violence since that time and many of them have been very, very good and positive changes, they have occurred piecemeal.</p> <p>The goal of this series of meetings is to again take a comprehensive review of the laws and practices in this area, to identify areas where the statutes and local practices fall short of protecting victims and preventing</p>

<p style="text-align: right;">Page 6</p> <p>1 domestic violence.</p> <p>2 Personally I think all of us want to</p> <p>3 learn more about this issue and help highlight</p> <p>4 best practices in the court system and in law</p> <p>5 enforcement that they may be replicated across</p> <p>6 the State of Missouri.</p> <p>7 We had a very productive set of</p> <p>8 meetings in St. Louis on September 7th. Among</p> <p>9 those ideas we have a 185-page transcript that</p> <p>10 was taken that day which will -- is either on</p> <p>11 the Internet now or will soon be on the</p> <p>12 Internet, and many of the ideas are articulated</p> <p>13 there and can be read by the citizens of the</p> <p>14 State.</p> <p>15 St. Louis County Prosecuting Attorney,</p> <p>16 Bob McCulloch, for example, at that meeting said</p> <p>17 that training officers to include -- said</p> <p>18 training officers to include specific details in</p> <p>19 their reports of victim's statements when first</p> <p>20 responding to domestic violence calls would lead</p> <p>21 to greater opportunity to admit into evidence --</p> <p>22 to admit into evidence at any court proceeding</p> <p>23 if the victim is unable or unwilling to testify.</p> <p>24 And Judge Michael Burton called for allowing</p> <p>25 greater judicial flexibility with orders of</p>	<p style="text-align: right;">Page 8</p> <p>1 here with me and a few names that will be here</p> <p>2 soon as the morning progresses. The first,</p> <p>3 again, to my right is Colleen Coble who is the</p> <p>4 CEO of the Missouri Coalition Against Domestic</p> <p>5 and Sexual Violence. She is a well-known</p> <p>6 advocate of -- on the issue to the General</p> <p>7 Assembly and to all of us who care about these</p> <p>8 matters across the State.</p> <p>9 Jason Lamb to my left is the Executive</p> <p>10 Director of the Missouri Office of Prosecution</p> <p>11 Services and a former prosecutor himself in</p> <p>12 Audrain County from 2003 to 2009.</p> <p>13 Representative Chris Kelly to my right</p> <p>14 represents the southern part of Boone County</p> <p>15 including Columbia. Chris was elected to the</p> <p>16 house -- has been elected for the house for six</p> <p>17 terms from 1982 to 1994 and most recently</p> <p>18 elected again in 2008. He has previously served</p> <p>19 as Boone County's Associate Circuit Judge.</p> <p>20 Representative Stacey Newman to my left</p> <p>21 was elected to the house in 2009 and serves part</p> <p>22 of Richmond Heights and Clayton over in the St.</p> <p>23 Louis area. We thank her for making the drive</p> <p>24 all the way from St. Louis to show her</p> <p>25 commitment to this issue.</p>
<p style="text-align: right;">Page 7</p> <p>1 protection to extend their terms and include</p> <p>2 conditions that must be met prior to any</p> <p>3 dismissal.</p> <p>4 I'm grateful to the members of the</p> <p>5 legislature who are here today trying to help</p> <p>6 this problem across the State. You are critical</p> <p>7 to this process, and I both appreciate and look</p> <p>8 forward to your comments today and ideas on this</p> <p>9 important issue. We have two more meetings</p> <p>10 currently scheduled. The first is today's</p> <p>11 meeting and then one in Kansas City on September</p> <p>12 27th.</p> <p>13 If we need more time we will continue</p> <p>14 this process. I'm committed to investing as</p> <p>15 much time and effort as we require. Our goal is</p> <p>16 to develop a comprehensive report with</p> <p>17 meaningful and detailed recommendations on how</p> <p>18 we can improve our state's handling of defendant</p> <p>19 abusers, their victims and the subject of</p> <p>20 domestic violence as a whole.</p> <p>21 Again, I appreciate your being here</p> <p>22 today, and I look forward to continuing to build</p> <p>23 momentum through these meetings as we move</p> <p>24 across Missouri.</p> <p>25 Let me introduce now the people who are</p>	<p style="text-align: right;">Page 9</p> <p>1 And Senator Kurt Schaefer, my colleague</p> <p>2 -- my former colleague from the Senate as I was</p> <p>3 in that body before I moved into this position.</p> <p>4 Senator Kurt Schaefer was elected to the</p> <p>5 Missouri Senate in 2008 and represents Boone and</p> <p>6 Randolph Counties. He sits on the judiciary and</p> <p>7 appropriations committee. He's the vice</p> <p>8 chairman of the appropriations committee, and in</p> <p>9 a short time has handled many significant issues</p> <p>10 including strengthening tobacco enforcement laws</p> <p>11 and DWI laws in our state.</p> <p>12 And I believe that Stephen Webber and</p> <p>13 Mary Still, both state representatives from this</p> <p>14 area, will be joining us as the morning</p> <p>15 progresses.</p> <p>16 So with that let's begin the morning</p> <p>17 and ask Colleen Coble, CEO of the Missouri</p> <p>18 Coalition Against Domestic and Sexual Violence,</p> <p>19 to start things off.</p> <p>20 Good morning.</p> <p>21 TESTIMONY</p> <p>22 BY COLLEEN COBLE:</p> <p>23 Thank you all very much for this</p> <p>24 opportunity. My task this morning, continuing</p> <p>25 on with my role as historian, is to give you an</p>

1 overview of state and federal funding that comes
2 into the State of Missouri and supports the work
3 of domestic violence direct services from the
4 advocacy community through shelters and
5 non-residential programs as well as the funds
6 that support our allies within law enforcement,
7 prosecution and the courts.

8 There is a flowchart in your binder.
9 I'm not certain of the tab. It's funding, aptly
10 named, that gives you sort of a color-coded
11 diagram if you wish to refer to that as I begin.

12 The first state funding for domestic
13 violence services occurred in Missouri in 1993.
14 It was \$125,000 for all of the programs that
15 existed in the State at that time numbering
16 about 30. The state funds have grown since that
17 time to the current rate of 4.75 million. Those
18 state dollars flow from the Department of Social
19 Services and are appropriated within the
20 Division of Family Services, or the Family
21 Support Division now.

22 Just again, by way of anecdote, that
23 first \$125,000 that came into the State was
24 actually a transfer from the horse racing
25 commission which at the time had an annual

1 budget of \$125,000 even though horse racing was
2 illegal in the State of Missouri. So having
3 pointed that out your colleagues in the General
4 Assembly at the time felt that it was deserving
5 to transfer those funds to domestic violence
6 services.

7 The other notable early days
8 appropriations history is that at the time of
9 the floods, when Governor Mel Carnahan was in
10 office in 1993, we noticed upwards of 50 to
11 60-percent increases in requests for services.
12 And as you recall, that disaster continued over
13 the span of two plus years almost. And through
14 Governor Carnahan's leadership at the time we
15 were able to be the first state in the nation
16 that received funding for domestic violence
17 services as a part of federal disaster relief
18 aide. That is now standard in the federal
19 government's response to states and communities
20 where there have been natural disasters. I'm
21 very proud of that work that happened in the
22 State of Missouri.

23 The largest source of funds to support
24 domestic violence programs come from the federal
25 government. If we look at this flowchart you

1 can see there are three main federal departments
2 that fund domestic violence services, and those
3 are primarily shelter, hotlines, legal advocacy,
4 case management, support groups, therapy and
5 services for children.

6 The Department of Justice has the
7 largest amount that they provide to the State of
8 Missouri. In the Victims of Crime Act it's
9 about 7-1/2 million dollars in this current
10 fiscal year. Those aren't federal tax dollars.
11 Those are crime fines that are levied against
12 those convicted of federal crimes. They're put
13 into a program that is allocated each year by
14 Congress. On a percentage basis those funds are
15 then awarded to states. These funds are open to
16 all of those who provide services to victims of
17 crime; again, law enforcement, prosecutors, and
18 not strictly limited just to domestic violence.
19 Sexual assault services, child abuse programs
20 are also funded out of what is a called VOCA
21 funds at the federal level.

22 A new program has just been initiated
23 that is on the chart for sexual assault
24 services. The majority of the programs in the
25 State of Missouri are not solely domestic

1 violence programs but they are both sexual
2 assault and domestic violence. Most communities
3 cannot support standalone separate programs
4 except the urban areas. Kansas City and St.
5 Louis have separate rape crisis programs.
6 There's a new federal program under the Violence
7 Against Women Act that is the first time there's
8 even been funds awarded for sexual assault
9 services. I might add there's never been state
10 tax dollars appropriated for sexual assault
11 services.

12 Those dollars come in now at just a
13 little over \$275,000 for the entire state. All
14 of these Department of Justice funds are
15 appropriated and designated for distribution
16 through the Department of Public Safety. Sort
17 of a flow from the federal similar department,
18 Department of Justice, down to Missouri's
19 Department of Public Safety.

20 The other grant program that is very
21 significant in funding these services is what's
22 know as STOP grants, and Services Training
23 Officers and Prosecution grants that have a
24 federal formula. Thirty-five percent of that
25 formula goes to victim services. The others are

1 allocated law enforcement, prosecutors and
2 courts.

3 There are also discretionary grants
4 that the State is eligible to seek at the
5 federal level. Those are listed; everything
6 from visitation centers to rural grants,
7 transitional housing, which is a chronic need in
8 the State of Missouri and around the country,
9 and then civil legal assistance grants.
10 Missouri has received some or all of those
11 grants in the past. They are often awarded for
12 about three years and then you're done. So
13 there's a problem of sustaining programs that
14 are started with the federal funds, and we in
15 Missouri have nothing to go to with state funds
16 to keep them going.

17 The last grant that's in the Department
18 of Public Safety mirrors the federal Victims of
19 Crime Act. It's called the State Services to
20 Victims Fund statutorily established, and it
21 assesses fines on those convicted of crimes in
22 the State of Missouri. \$7.50 a case goes into
23 this fund. There's a funding allocation that is
24 set in the statute. Some of it supports the
25 work of the office of Victims of Crime in DPS,

1 some goes to the highway patrol, and some goes
2 into direct funds for crime victims in the crime
3 victims compensation program. The rest goes
4 into the grant program, and SSBF is its
5 shorthand. It's about 5 million dollars a year.

6 Moving over to what comes from the Fed.
7 Under the US Department of Health and Human
8 Services was the very first federal grant
9 program, the Family Violence Prevention and
10 Services Act. That also flows like the State
11 dollars to the Department of Social Services,
12 and it's been pretty steady for a long time at
13 about 1.6 million. It's bumped up a little bit
14 over time, but there's not been any significant
15 increases in those dollars for quite a long
16 time.

17 The Centers for Disease Control and
18 Prevention is also under that federal
19 designation, that federal department, and their
20 funds come in the Department of Health and
21 Senior Services in Missouri. They have two
22 grant programs; one that's part of a larger
23 block grant that can be used for sexual assault
24 services. That is just a little bit over a
25 hundred thousand dollars for the entire state.

1 The more significant grant program is
2 our one piece in the entire funding scheme that
3 provides for prevention work, and that is the
4 Rape Prevention and Education Fund that's also
5 in the Department of Health, and that's about
6 \$730,000, although that is a fund that
7 fluctuates quite a bit over each year.

8 The last federal stream is at HUD,
9 Housing and Urban Development, and those are
10 homeless funds. Several -- many of the domestic
11 violence shelters in the State are eligible for
12 those dollars as they are serving families that
13 are made homeless as a result of violence in
14 their own homes. Those dollars come in at about
15 1.8 million.

16 All of these grant programs are
17 competitive. The funds have not increased over
18 the years while the number of programs competing
19 for these funds has tripled. We --

20 REPRESENTATIVE KELLY: Tax credits.
21 You know, we love to hate tax credits these
22 days, but your shelters benefit significantly
23 from tax credits, don't they?

24 MS. COBLE: Yes. In about '94 was the
25 law that passed that established tax credits for

1 domestic violence shelters. We have a statutory
2 cap at 2 million dollars, and I would submit
3 there's quite a difference between the dollar
4 amount and the value at the community level that
5 those benevolence tax credits bring in.

6 REPRESENTATIVE KELLY: Now, you don't
7 show the tax credit money on your chart. Does
8 the tax -- if I were to make a tax credit
9 contribution does the money flow directly to the
10 individual shelter in my community?

11 MS. COBLE: Yes, sir, it does. The
12 Department of Social Services administers that.
13 You have to be certified and in compliance with
14 the statutes, and then it goes directly to that
15 program.

16 REPRESENTATIVE KELLY: All right. And
17 the State government doesn't play any kind of a
18 -- or does the State government play some role
19 that I don't know about in the decisions about
20 how to use that money or is that decision --

21 MS. COBLE: No, sir.

22 REPRESENTATIVE KELLY: -- pretty much
23 left in the hands of the individual shelter?

24 MS. COBLE: It's left in the hands of
25 the locals providing the shelter services. They

1 provide documentation to the donor for their tax
2 credits and then they record those funds in
3 their donations.

4 REPRESENTATIVE KELLY: Do you know how
5 much the tool was used last year?

6 MS. COBLE: Last year and the previous
7 year have been some of the lowest years on
8 record because of economics. And I believe we
9 were only using about half of those tax credits
10 last year, about a million, but those numbers
11 are already increasing as the community
12 continues to get onboard. And those are really
13 crucial dollars.

14 ATTORNEY GENERAL KOSTER: If I could
15 follow up, because I apologize, my attention got
16 diverted for a second. What is the tax program
17 -- tax credit program that benefits this issue
18 and what is the name of it?

19 MS. COBLE: It's the Domestic Violence
20 Shelter Tax Credit. It's a 50-percent tax
21 credit on donations of \$100 or more to eligible
22 domestic violence shelters that meet the
23 requirements in state statute for their
24 operations and establishment. And it --

25 ATTORNEY GENERAL KOSTER: Is it capped

1 or uncapped?

2 MS. COBLE: Capped at 2 million. Can't
3 be bought or sold. Other tax credit programs
4 can. This is solely for the eligible entities
5 in each community. And if there are -- the
6 Department of Social Services will reallocate if
7 there are funds that aren't being used in one
8 part of the State and there's a greater need in
9 another. So there's great flexibility.

10 ATTORNEY GENERAL KOSTER: And I may be
11 -- I know I'm asking the same question twice,
12 but how much of that has been used in the last
13 couple of years?

14 MS. COBLE: We have been about at half
15 for the past couple of years. As most of the
16 charitable tax credits have gone down, ours has
17 done so similarly.

18 ATTORNEY GENERAL KOSTER: Could I ask a
19 few other questions or how much farther do you
20 have in your presentation?

21 MS. COBLE: I'm ready for questions.

22 ATTORNEY GENERAL KOSTER: You mentioned
23 earlier that the horse racing commission had
24 directed about -- did you say about 140K?

25 MS. COBLE: 125.

1 ATTORNEY GENERAL KOSTER: \$145,000.

2 But now resources directed to the issue are
3 around 4.7 million and we're about 15 years down
4 the road from the horse racing money.

5 MS. COBLE: Uh-huh.

6 ATTORNEY GENERAL KOSTER: But all of
7 the margin there, 4.5 million dollars you
8 mentioned, was federal. Where is --

9 MS. COBLE: Those are the state
10 dollars.

11 ATTORNEY GENERAL KOSTER: Well, but
12 they all flow from federal sources?

13 MS. COBLE: The one pot of GR money is
14 4.75 million current. If I'm not mis --

15 ATTORNEY GENERAL KOSTER: So I -- as we
16 went through all the money that came from Health
17 and Human Services, HUD and DOJ, that is --

18 MS. COBLE: Separate federal grant
19 programs.

20 ATTORNEY GENERAL KOSTER: -- separate
21 from the 4.7?

22 MS. COBLE: Yes, sir.

23 ATTORNEY GENERAL KOSTER: Okay. I
24 misunderstood. Thank you.

25 MS. COBLE: And if I could add. One of

1 the ways that Missouri does a good job of
2 allocating these funds is that the Department of
3 Public Safety dollars pay for your salaries.
4 Those are the biggest expenses of running
5 programs. The Department of Social Services
6 dollars pay for units of service. They pay that
7 additional part of what you need to operate a
8 program. They pay for your hotline. They pay
9 the cost of housing somebody for 24 hours a day
10 room and board. They pay for those other units
11 of services. So the two together really are a
12 nice funding system in terms of the structure
13 and balance that they provide for the
14 non-profit.

15 ATTORNEY GENERAL KOSTER: So we've got
16 4.7 in GR.

17 MS. COBLE: Yes, sir.

18 ATTORNEY GENERAL KOSTER: And how much
19 on top of that in fed?

20 MS. COBLE: Probably in the
21 neighborhood of about 20 million all told all of
22 which fluctuates year to year and is competitive
23 and not a guarantee of stable funding.

24 ATTORNEY GENERAL KOSTER: So that's a
25 giant step forward from the horse racing money?

1 MS. COBLE: Yes, it is. It is.
 2 ATTORNEY GENERAL KOSTER: One of the
 3 numbers that came out in our last meeting that
 4 was so interesting was the notion that 25,000
 5 people or so had requested overnight help from
 6 domestic violence shelters and 15,000 of those
 7 25,000 were turned away because lack of
 8 resources. And the poverty numbers just came
 9 out, I don't know, over the weekend or a week
 10 ago, whenever that was, and we're seeing
 11 increased utilization from Medicaid here in the
 12 State and other things. Do you have -- with us
 13 being three-quarters through the calendar year
 14 do you have any indication as to whether --
 15 where you are on utilization of the shelter
 16 resources and increased utilization I guess is
 17 the --

18 MS. COBLE: Tremendously overcrowded
 19 and still turning people away. Programs are
 20 packed. The residential programs are seeing the
 21 increases continue. We've also done some
 22 identification of the percentages because our
 23 programs are free to those in need. We serve an
 24 over represented percentage of women and
 25 children living in poverty. So anywhere from 70

1 to 85 percent of those coming in for services
 2 have no place else to go and are living well
 3 below the federal poverty levels.

4 ATTORNEY GENERAL KOSTER: On shelter
 5 utilization are you the -- is your entity,
 6 MCADV, the entity that accumulates those numbers
 7 --

8 MS. COBLE: Yes.

9 ATTORNEY GENERAL KOSTER: -- from
 10 around the State?

11 MS. COBLE: Yes. The State contracts
 12 with us.

13 ATTORNEY GENERAL KOSTER: And do you do
 14 that on a quarterly basis or on a --

15 MS. COBLE: We receive --

16 ATTORNEY GENERAL KOSTER: -- annual
 17 basis?

18 MS. COBLE: -- reports on a monthly
 19 basis and then compile them annually. So we can
 20 give you some touchstones in time.

21 ATTORNEY GENERAL KOSTER: So when we
 22 put together a report, say, in a month from now
 23 or month and a half --

24 MS. COBLE: We could tell you what we
 25 have to date, yes, sir.

1 ATTORNEY GENERAL KOSTER: Okay. Other
 2 questions? Representative Newman?

3 REPRESENTATIVE NEWMAN: Good morning,
 4 Colleen. Is there a way that you could just
 5 briefly summarize from the last, you know,
 6 budget rounds that we went through in the
 7 legislature in terms of how that was affected
 8 with any of these budget numbers?

9 MS. COBLE: Our funds were cut by 50
 10 percent. And that 4.75 million, that was the
 11 first big budget presentation out of the house
 12 committee on the Department of Social Services,
 13 the Appropriations Sub-Committee, they cut it by
 14 50 percent. And through incredible advocacy and
 15 contact with our legislators advocates around
 16 the State rallied and the money was put back in
 17 by Budget Chairman Icet and it stayed in. And I
 18 do have to credit Senator Schaefer for his help
 19 in that, that there were no cuts when the budget
 20 finally passed.

21 However, with the requirements on the
 22 Governor's office to address a shortfall even
 23 beyond what was in the State budget, the current
 24 domestic violence grants, the State general
 25 revenue dollars, were cut by 15 percent through

1 a governor's withhold. And what that translates
 2 into is a program that was getting about \$56,000
 3 for an entire year of 24-hour a day services is
 4 now getting about 40. So we made it through
 5 that budget process with great support, again,
 6 in a bipartisan way, but when it comes down to
 7 it we had a 15-percent withhold. And I have to
 8 commend those who worked within the Department
 9 of Social Services because they really worked
 10 with us on how to do that in a way that had the
 11 least dramatic effect.

12 ATTORNEY GENERAL KOSTER: Senator
 13 Schaefer?

14 SENATOR SCHAEFER: Thanks. I do want
 15 to go back to the tax credit issue. Have you
 16 got any data that shows how the tax credits --
 17 how they were leveraged? I mean, because
 18 usually you can leverage those dollars into
 19 additional dollars that you otherwise wouldn't
 20 get, and I'll give you an example.

21 Recently, for example, the food bank in
 22 town, they've received a tax credit every year
 23 since that tax credit has been available for the
 24 last 12, 15 years, and DED, just a few months
 25 ago, decided that they were no longer going to

1 issue that tax credit. And Chris and I worked
2 very hard on that. One -- the reason we were
3 able to, I think, turn that decision around is
4 the food bank had some really compelling data on
5 roughly \$100,000 tax credits, how they could
6 leverage that to 1.3, 1.5 million dollars worth
7 of food.

8 The Governor did put together a tax
9 credit commission that's looking at tax credits
10 and frankly looking at eliminating tax credits
11 right now. And so for my own benefit I would
12 like to know how that money -- not just the
13 amount, but how it was leveraged, and I would
14 really implore you to provide that data to that
15 tax commission because they're looking at all
16 tax credits.

17 MS. COBLE: I do intend to speak to
18 them. I can tell you there are several program
19 representatives and directors in the audience
20 today. All of these federal grants, the
21 majority of them require matching money.

22 SENATOR SCHAEFER: Right.

23 MS. COBLE: It's the kind of thing when
24 those tax credits come in and then they've got
25 the cash match that they can use to get all of

1 these federal dollars that otherwise they
2 couldn't get. So it's an essential piece of
3 that funding mechanism.

4 Some of these programs have got upwards
5 of 25 to 30 different funding streams to keep
6 track of, which if I could -- my one ask for
7 this as time runs out is just to note that the
8 federal government allows the State of Missouri
9 to take a 15-percent administrative cut off of
10 all of these funds. Yet a not-for-profit that
11 employs four staff members has more requirements
12 from the IRS, reporting requirements, than
13 government does. We fall under the same
14 requirements of the IRS in reporting that all of
15 the big businesses fall under.

16 The mishaps at Enron and other
17 corporations resulted in significant changes in
18 tax laws and reporting for all corporations. We
19 need to have a system in Missouri where there
20 can be a percentage allowed in these grant
21 programs for the administration of programs that
22 are subject to great penalties and loss of
23 not-for-profit status if they don't do that.
24 And that's a big need for right now.

25 ATTORNEY GENERAL KOSTER: Chris?

1 REPRESENTATIVE KELLY: Let me follow-up
2 on that. Are you suggesting that there is a
3 federal safe harbor which if enacted by Missouri
4 would alleviate your filing requirements with
5 the Feds?

6 MS. COBLE: No, sir. What I'm
7 suggesting is that it would be beneficial to
8 mirror what the federal government allows the
9 State to do with the grant programs of federal
10 dollars.

11 REPRESENTATIVE KELLY: I get that, but
12 how does that help you with your tax reporting?

13 MS. COBLE: We are tax exempt, but we
14 are required to file incredible numbers of tax
15 reports.

16 REPRESENTATIVE KELLY: And you would
17 not have to do that if --

18 MS. COBLE: Nobody pays for us to do
19 that. How's that? No one pays. We can't use
20 our grant monies for administrative purposes but
21 yet we have to compile timesheets on a 15-minute
22 basis for all of our employees.

23 REPRESENTATIVE KELLY: Right.

24 MS. COBLE: All of their records. All
25 of the reports from our board of directors. All

1 of the 990 reports that have been hugely
2 expanded over the past two years.

3 REPRESENTATIVE KELLY: I think it would
4 be a good idea to flush that out a little more.
5 And here's why. My colleagues in the
6 legislature are generally loathe or at least
7 skeptical about providing administrative money.

8 MS. COBLE: True.

9 REPRESENTATIVE KELLY: But if they saw
10 how providing the administrative money would
11 mean less fooling around with the IRS, they
12 don't like the IRS even more than they don't
13 like administrative money, and they would be
14 inclined to go for something like that, I think
15 anyway, or at least an allowance of a
16 percentage. Thank you.

17 ATTORNEY GENERAL KOSTER: Any other
18 questions? Thank you very much, Colleen.

19 Let's see. I think now we would like
20 to welcome Dan Knight who is prosecuting
21 attorney of Boone County to come and talk with
22 us about prosecution challenges in domestic
23 violence cases.

24 I'd also like to welcome Representative
25 Stephen Webber. Welcome, sir. He represents

<p style="text-align: right;">Page 30</p> <p>1 this area as well. 2 Dan, good morning. 3 TESTIMONY 4 BY MR. KNIGHT: 5 Good morning. Thank you everybody for 6 letting me come speak to you today. And most 7 importantly I'd like to thank Attorney General 8 Koster for convening this task force which is, 9 of course, an extremely serious issue that we're 10 dealing with, and I hope that some of my input 11 will be worthwhile to this panel. 12 Obviously, law enforcement has its 13 hands full across the country, throughout 14 Missouri and right here in Boone County dealing 15 with these individuals who victimize the weak 16 and the defenseless and the vulnerable. A lot 17 of times we're talking about girlfriends, we're 18 talking about wives, ex-wives, but a lot of 19 times the thing that makes these cases just so 20 heartbreaking is that we're talking about 21 children who are victims in one way or another. 22 It's my strong belief that these 23 offenders must be held accountable for their 24 actions for a number of different reasons. 25 First of all, though, to separate those</p>	<p style="text-align: right;">Page 32</p> <p>1 issue of lack of cooperation from victims. You 2 know, we need to have victims come into court 3 and testify after these things happen to them. 4 And, you know, it all stems back -- I know that 5 you all understand this. But this stems back to 6 the Sixth Amendment to the United States 7 Constitution. 8 Defendants have a right to confront 9 witnesses against them. Witnesses would be 10 victims in this case. So generally speaking, 11 generally speaking, a victim is going to have to 12 come into court and testify against the person 13 who has committed this crime. And then the 14 mechanism to -- for -- to effectuate this right 15 of confrontation is cross-examination. And 16 generally speaking, defendants in these cases 17 are going to have attorneys, and they will be 18 able to cross-examine these victims in court. 19 So these victims need to testify. 20 Now, Bob McCulloch, the prosecutor for 21 St. Louis, has made suggestions about police 22 reports and improvements in police reports, I 23 guess, and training that can be done. Sometimes 24 excited utterances can be used, for example, in 25 lieu of victim testimony, but the great majority</p>
<p style="text-align: right;">Page 31</p> <p>1 individuals from the people that they abuse, at 2 least for a period of time. Sometimes it's very 3 important to do that, but also these people are 4 a threat to the general public, of course. But 5 deterrence is important so it's important for 6 these people to be held accountable so that in 7 the future this same offender might think twice 8 before committing this type of offense, and then 9 also it's important always to send a message to 10 the community that we just will not tolerate 11 this type of conduct. 12 These cases are serious, like I said. 13 They receive a very high priority in my office. 14 Jason Lamb has provided a letter to Attorney 15 General Koster. I think it was dated late July 16 of this year. I'm sure you all have had an 17 opportunity to look at that. I agree with those 18 suggestions. I support those suggestions that 19 he's made. 20 However, I'm going to focus my comments 21 today specifically on this issue of victim 22 cooperation. Without any question in these 23 cases, without any question, the largest problem 24 prosecutors and law enforcement deal with in 25 holding these offenders accountable is this</p>	<p style="text-align: right;">Page 33</p> <p>1 of these cases require victims to actually come 2 into the courtroom and to testify. 3 You know, that's a common misconception 4 also among victims that we deal with on a daily 5 basis. They think, well, you know what? I 6 already told the police what happened, and that 7 should be in a police report. Why can't that 8 police report just be used in lieu of my 9 testimony? No confrontation there. Sixth 10 Amendment. And so we have to explain that to 11 them. And I -- and like I said, I think the 12 single largest reason, the single largest reason 13 that we have this problem of lack of cooperation 14 is due to victim manipulation without any doubt. 15 I believe that the laws in the State of 16 Missouri inadequately address this issue of 17 victim manipulation, and I'll get to that in a 18 little bit. But first of all, I'd like to talk 19 to you about the nuts and bolts of prosecution. 20 And I'm sure you've probably heard this before, 21 but I think it's worth repeating. When offenses 22 -- when these offenses are committed it's up to 23 law enforcement, of course, to conduct that 24 initial investigation. And then when law 25 enforcement believes there's enough evidence to</p>

1 prosecute, the case will be sent over to our
 2 office, and we will evaluate the case,
 3 investigate it as much as we can, but an
 4 important component to the investigation is
 5 actually contacting the victim in the case;
 6 finding out what the wishes of the victim are.
 7 You know, these victims must be treated
 8 with compassion and dignity and with respect.
 9 That's very important. And their wishes must be
 10 factored into whatever we do in these cases.
 11 It's important -- and, you know, in these cases,
 12 of course, in a lot of them victims have just
 13 been traumatized. Their worlds have been turned
 14 upside down, and they don't know where to turn.
 15 So it's important for prosecutors to explain to
 16 victims where services might be available.
 17 Luckily here in Boone County we have
 18 wonderful agencies that provide services to
 19 victims. Barb Hodges from True North, they will
 20 provide services to the best of their ability
 21 with regard to maybe shelter -- immediate needs
 22 like shelter or food, even counseling, things
 23 like that. It's important for prosecutors to
 24 steer victims in the right direction, and it's
 25 important for those agencies such as True North,

1 which was formerly The Shelter, or the Rainbow
 2 House, those types of agencies to be adequately
 3 funded.
 4 It's important for prosecutors to
 5 explain to victims what they can expect from the
 6 criminal justice system. You know, our hope is
 7 that victims will hang in there, and in many
 8 cases, you know, over time victims don't for one
 9 reason or another. Of course, I think victim
 10 manipulation is our biggest issue there. But
 11 explaining to victims what can happen. Here's
 12 what can happen to a victim in these cases.
 13 You know, typically in all domestic
 14 cases a defense attorney or a defendant is going
 15 to have a right to take a deposition in Missouri
 16 of a victim. I believe last I heard Missouri is
 17 one of only, I think, 10 states or so, it might
 18 be give or take a couple, 10 states or so that
 19 allows for defendants through their attorneys to
 20 take pre-trial discovery depositions of victims.
 21 And let me tell you that's no small deal because
 22 those depositions can go on and on and on. They
 23 can take hours. And after that, after those
 24 withering questions, a lot of times victims
 25 decide they no longer want to assist. So that's

1 a right the defendants have here in Missouri
 2 that's not afforded to a lot of defendants in a
 3 lot of other states. It makes things a little
 4 bit more difficult as far as prosecution is
 5 concerned.
 6 Also on felony cases in a lot of
 7 counties in Missouri there is no grand jury. So
 8 there will be a preliminary hearing. The victim
 9 must come in to testify. They're going to be
 10 subject to cross-examination right then and
 11 there; right then and there in open court. And
 12 we'll have victims that will fall by the wayside
 13 in other counties because of that. You know,
 14 this -- the experience is just too much for
 15 them, and sometimes understandably so.
 16 You know, these offenders have a large
 17 advantage over law enforcement due to the
 18 proximity that they have to victims in these
 19 cases. They know what makes victims tick. They
 20 can push their buttons sometimes, and so they
 21 can impact certainly whether or not a victim is
 22 going to hang in there. And because these cases
 23 are so difficult massive resources are required
 24 a lot of times from law enforcement to
 25 effectively prosecute them.

1 Let me tell you a little bit about my
 2 office, and I'm proud of this program that we
 3 have there called the Domestic Violence
 4 Enforcement Unit within our office. We have 3
 5 prosecutors out of 14 that pretty much handle
 6 exclusively cases of this nature. I have two
 7 victim advocates, and then I also have an
 8 investigator. So I have 6 people out of 45
 9 full-time employees who work on these types of
 10 cases.
 11 You know, our budgets are shrinking.
 12 My budget has shrunk every year since I've taken
 13 over which was January 1st of 2007, but
 14 fortunately we are able to secure grants and
 15 about 70 percent of these six positions that we
 16 have are funded really through the federal
 17 government money that's coming into the
 18 Department of Public Safety and being funneled
 19 over to our office. So we're very grateful for
 20 that. Then we are part -- this DOVE unit that
 21 we have is part of a bigger team, and that is
 22 there is actually a countywide Domestic Violence
 23 Enforcement unit, and this is a combination of a
 24 number of different law enforcement agencies.
 25 We have a couple of different detectives from

1 the Columbia Police Department. Bob Dochler is
 2 here. He's going to speak to you a little bit
 3 later. He's a wonderful detective by the way.
 4 We have a detective from the Boone County
 5 Sheriff's Department, the shelter -- True North,
 6 they play a role in this. We also have a person
 7 from the MEND program, and I think that Judge
 8 Daniels will explain to you what they do a
 9 little bit later.

10 But, you know, the thing that is so
 11 wonderful about this countywide Domestic
 12 Violence Enforcement unit that we have is that
 13 we are able to share information. We have
 14 dedicated individuals that handle these type of
 15 cases almost exclusively so we know the
 16 offenders. We know people who are victims in
 17 these cases, and we can keep track of that. We
 18 can brainstorm. We can communicate. And I
 19 think a great idea has emerged that I want to
 20 talk to you a little bit later to deal with this
 21 problem that we have of victim manipulation.
 22 And I'm not going to take credit for it. It's
 23 come through the Boone County DOVE program.

24 We also have a domestic violence docket
 25 in Boone County, and I don't think that all

1 counties at all have that. As I said, Judge
 2 Daniels is the judge there. She does a
 3 wonderful job, and I -- one thing that I like so
 4 much about this, and that's the domestic
 5 violence docket, is that we can hold offenders
 6 accountable more quickly. Cases don't seem to
 7 get continued or pushed off as often. Judge
 8 Daniels will hold the party's feet to the fire,
 9 and we will have to get a case resolved one way
 10 or another pretty quickly. And that is
 11 important because victims in these cases, like I
 12 said, over time can fall by the wayside.

13 Here's what I see as a major
 14 improvement that could be made to the criminal
 15 justice system in the State of Missouri that
 16 might dissuade defendants from engaging in this
 17 victim manipulation and would then probably, I
 18 think, certainly result in more victims staying
 19 cooperative in cases.

20 I think that we need to have a new law
 21 making it a criminal offense to violate a
 22 predisposition, I'll call it, predisposition
 23 no-contact order. We need to have a new law
 24 that makes that an actual crime. And I'll talk
 25 about a couple of different ways that this comes

1 up. Here's what happens, and I'm sure you
 2 all know this. In a large majority of these
 3 cases -- the majority of the domestic violence
 4 cases that we have are misdemeanors, but in a
 5 large majority of these cases someone is
 6 arrested and they're taken to our jail. And
 7 this is going to be typical, I think, of other
 8 counties in Missouri. They're taken to our jail
 9 and then before the prosecution is even involved
 10 in the case defendants are given an opportunity
 11 to bond out.

12 In Boone County the scheduled bonds on
 13 these domestic violence cases; assault --
 14 domestic assault in the Third Degree, Class A
 15 Misdemeanor, is going to be \$1,000. So the
 16 majority of these defendants will actually bond
 17 out. On our bonding papers which is a contract
 18 with the Court that the defendants must sign off
 19 on, they will -- there will be a condition to
 20 have no contact with the victim in a case. And
 21 then typically the bond will be returnable in
 22 Boone County maybe a week later.

23 Here's the problem that we run into.
 24 Defendant is arrested. Law enforcement says
 25 well, if he bonds out he's going to be -- the

1 condition is going to be no contact with you.
 2 And then within hours of the offense being
 3 committed the defendants may be right back at
 4 the residence where the crime occurred, or the
 5 defendant one way or another is contacting his
 6 victim, and the victim is saying hold on a
 7 second. I thought that this defendant was
 8 ordered not to have contact with me. I'm going
 9 to call the police.

10 So the victim will call the police, and
 11 the police will say well, our hands are tied
 12 here because there is no law that prohibits
 13 this. It's basically just a contract. Now,
 14 what I'll do for you is I will submit -- I'll
 15 take a report, and I'll submit this report over
 16 to the prosecutor, and the prosecutor can then
 17 file a motion to revoke that bond. Judge Kelly
 18 was an Associate Circuit Court judge, I think,
 19 for seven years in Boone County. You know the
 20 process here.

21 But what will happen then is the
 22 prosecutor -- who knows. This might occur on a
 23 Saturday. We don't have court on Saturdays and
 24 Sundays. So the very quickest we'd be able to
 25 get this on might be a Monday, but don't hold

1 your breath on that. That probably isn't going
2 to happen. It probably is going to take maybe a
3 week before we can take any action, before we
4 can get into court with notice being provided to
5 the defendant and have this bond revoked in a
6 particular case.

7 Well, the defendant very well might go
8 back to jail, bond again, and then the whole
9 process starts all over. I think that what
10 would be tremendous would be a law that would
11 actually prohibit this. And I think that we
12 could have language in the bonding papers
13 themselves, in the bond form, that say if you
14 contact the victim in any way, you will be in
15 violation of this statute which has punishment
16 up to maybe one year in jail. I propose at
17 least a Class A Misdemeanor for this, but that's
18 something that we can worry about a little bit
19 later on.

20 ATTORNEY GENERAL KOSTER: I'd like to
21 ask Representative Kelly his thinking on that.
22 It sounds like what Dan is proposing is
23 essentially a De facto, an order of protection
24 in every case, but if it's a condition of the
25 bond and it's a crime to violate the bond, it's

1 a state order of protection by a different name.

2 REPRESENTATIVE KELLY: I am quizzical
3 because dozens of times what happened is exactly
4 what you say. A guy would violate. Columbia
5 City policeman would show up -- or a county
6 deputy would show up at my house asking me to
7 sign a warrant if I was the judge on call, and
8 they'd go after him right then.

9 MR. KNIGHT: For what? Victim
10 tampering? What would the crime be?

11 REPRESENTATIVE KELLY: No. For
12 violation of the conditions.

13 MR. KNIGHT: What would the crime be --

14 REPRESENTATIVE KELLY: Or for violation
15 of the order of protection. See very often --

16 MR. KNIGHT: I'm going to get to that
17 because we don't have -- in these cases a lot of
18 times we're not going to have orders of
19 protection. And I also think that's an
20 inadequate tool as far as these no-contact
21 provisions are concerned. And I'll get into
22 that in a little bit.

23 REPRESENTATIVE KELLY: I'm not sure I
24 disagree with you on the bottom line, but it
25 seems to me that you could pursue a violation of

1 the conditions of release virtually immediately.

2 MR. KNIGHT: Well, not in all counties,
3 and it's certainly not been my experience in
4 Boone County.

5 REPRESENTATIVE KELLY: The judge won't
6 give you the warrant?

7 MR. KNIGHT: We would have to file a
8 motion -- sometimes that could potentially be
9 the case, but generally speaking we would have
10 to file a motion to have the bond revoked.

11 REPRESENTATIVE KELLY: Well, but it
12 seems also in the vast majority of these cases
13 that an order of protection is issued virtually
14 simultaneously. Lots -- I mean, I saw many --
15 I'm sure they don't in every case, but I saw
16 many of them.

17 MR. KNIGHT: That's a tool. In some
18 cases orders of protection will be sufficient.
19 In some cases. But I want to go through --

20 REPRESENTATIVE KELLY: I agree that
21 they're not in many cases.

22 MR. KNIGHT: Yeah. I want to go
23 through later on with this panel why I think
24 they are insufficient in a lot of cases. Okay?

25 ATTORNEY GENERAL KOSTER: Over in the

1 17th Circuit in Cass County I don't think
2 sheriff's deputies or police officers sort of
3 think about pulling somebody in for a violation
4 of a judicial bond unless the prosecutor moves
5 for it. I don't know that they see it as the
6 same kind of independent crime as something that
7 is -- that they derive their power from the
8 statute.

9 MR. KNIGHT: You know, I'm kind of
10 trying to figure out exactly how that would
11 happen anyway. Because we have the offender
12 back at the house. The police officer needs to
13 move quickly. I propose the police officer be
14 able to move quickly and go over there and
15 arrest for a new crime rather than -- you know,
16 logistically it's pretty difficult on-call; get
17 ahold of the prosecutor then get ahold of the
18 judge --

19 REPRESENTATIVE KELLY: Sure. I agree.

20 MR. KNIGHT: -- and then get that order
21 done. So I think that's --

22 REPRESENTATIVE KELLY: I agree. That's
23 why I say I don't disagree with you on the final
24 result here. But you agree that if you had the
25 order of protection, him showing up at the house

<p style="text-align: right;">Page 46</p> <p>1 is a criminal violation of the order of 2 protection. 3 MR. KNIGHT: Absolutely. Yeah, I do. 4 But I think that there are certainly some 5 shortcomings with orders of protection when 6 we're dealing about no-contact provisions, and 7 I'm going to go through that in a little bit. 8 REPRESENTATIVE KELLY: And he doesn't 9 need any judicial sanction to enforce the 10 violation of the order of protection because 11 that is a new -- 12 MR. KNIGHT: Right. That would be a 13 new law. 14 REPRESENTATIVE KELLY: Right. 15 MR. KNIGHT: Sure. So then I think 16 that this information should actually be 17 contained in the bonding papers. And I believe 18 Lisa Manson who works with Katherine Vannier, 19 she's done a lot of research on this. And this 20 morning when I came in there was maybe a 50-page 21 outline of what other states do in these types 22 of situations and how they have criminalized 23 this type of conduct. I haven't had a chance to 24 look through all that, but when I was browsing 25 over that this morning I did see that in some</p>	<p style="text-align: right;">Page 48</p> <p>1 on a victim for not doing this; for not 2 testifying. But a lot of times the intent is 3 not overtly stated. Because, you know, as 4 you're sitting here right now you might think to 5 yourself well, that sounds like victim tampering 6 to me. You know, and we've already got a 7 statute on victim tampering. 8 Victim tampering under 575.270, 9 Subsection 2. I'd like to read this, and I'm 10 not reading the whole statute. I'm just reading 11 the relevant part that we would deal with as 12 prosecutors and judges in this situation. 13 "A person commits the crime of victim 14 tampering if, with the purpose to do so, he 15 prevents or dissuades or attempts to prevent or 16 dissuade any person who has been a victim of any 17 crime from assisting in the prosecution 18 thereof." 19 First of all, we have to show that 20 there is this purpose to dissuade. When an 21 offender is calling from jail and saying hi, 22 sweetheart, I can't wait for the -- I can't wait 23 because I've got a great idea. In a month I 24 think that you and I should go to Los Angeles on 25 a vacation or something like that. Well, how do</p>
<p style="text-align: right;">Page 47</p> <p>1 states it looks like there is that actual 2 provision in the bonding paper. 3 Okay. So that covers the situation 4 where someone has -- I think covers the 5 situation where someone has bonded out and has 6 had contact with the victim. But, you know, a 7 lot of times these offenders they will also be 8 incarcerated and have contact with victims. And 9 so what I think should happen in those 10 circumstances is a lot of times, like I said -- 11 well, when they're in custody we're going to 12 have a much quicker arraignment. It's going to 13 be usually a couple three days maybe. 14 And then I'd like for -- in Missouri 15 for courts to be able to make an order to 16 defendant; you are not to have contact with this 17 victim. And maybe even cite the statute, maybe 18 even provide a copy of the statute. And if the 19 defendant does, then once again we're talking 20 about another criminal offense. Because a lot 21 of times we'll have these defendants, they'll be 22 in jail, and they contact -- they contact 23 victims, and it's going to be maybe some type of 24 a threat or it could be potentially some type of 25 an idea where a defendant might confer a benefit</p>	<p style="text-align: right;">Page 49</p> <p>1 we prove that the purpose is to prevent or 2 dissuade that victim from assisting the 3 prosecution? It's very difficult to do. Or if 4 maybe an offender would say something like 5 honey, you know how much -- how angry I get when 6 you disobey my wishes. Well, how can we prove 7 that the purpose is to dissuade or prevent 8 someone from assisting? 9 So the victim tampering statute is not 10 adequate. Now, problems with relying on 11 protection unfortunately -- 12 REPRESENTATIVE KELLY: Couldn't you -- 13 instead of making a new statute could you just 14 amend victim tampering to say to include contact 15 in violation of a -- and that might be cleaner 16 and shorter. 17 MR. KNIGHT: Absolutely. Yeah. 18 REPRESENTATIVE KELLY: So if you don't 19 have an intent the contact itself amounts to 20 victim -- 21 MR. KNIGHT: Sure. Wherever you all 22 would want to put this -- 23 REPRESENTATIVE KELLY: I'm just 24 thinking out loud here. 25 MR. KNIGHT: Certainly. You know, it</p>

1 might fit right in there. It might fit in this
 2 575 section. It certainly could.
 3 REPRESENTATIVE KELLY: Is it a Class A?
 4 MR. KNIGHT: Victim tampering, yes,
 5 would -- yeah. That would be a Class A, but in
 6 some cases felonies would be --
 7 MR. LAMB: If the underlying crime is a
 8 misdemeanor, it's a Class A. If the underlying
 9 crime is a felony then it's a Class C felony.
 10 REPRESENTATIVE KELLY: It is? Okay.
 11 MR. KNIGHT: In a lot of these cases,
 12 though -- and I'm certain of this. Certainly,
 13 in other counties that might not have the
 14 resources to assist victims to get orders of
 15 protection because, you know, that takes time,
 16 that takes effort. You know, luckily we have
 17 Barb Hodges here who -- at True North and who at
 18 anytime day or night is going to assist in
 19 obtaining these ex parte orders. But a lot
 20 cases, for whatever reason, we're not going to
 21 have an application from petitioner for an order
 22 of protection, and when we do have it and when
 23 it is signed off by the judge, tremendous. The
 24 no-contact order we can enforce through --
 25 because it's going to be a criminal violation.

1 That's great.
 2 You know, another problem that I have
 3 with these orders of protection is that we put
 4 the onus on the victims to apply for these. You
 5 know, when I'm handling these types of cases and
 6 we have a victim that doesn't want to assist, I
 7 always say, you know, we can make it clear when
 8 you testify in court that this is -- you can --
 9 that the defendant can be mad at me because I'm
 10 calling you to testify. I've subpoenaed you.
 11 This is a court order, and all the pressure is
 12 on me then, and we'll even establish that you
 13 don't want to be there and testify. It takes
 14 the pressure off a little bit, I think, in these
 15 cases. But with orders of protection, they have
 16 to be written out by victims placing all the
 17 pressure directly on them.
 18 ATTORNEY GENERAL KOSTER: Dan, do you
 19 know of any state that has a mandatory
 20 cooling-off period, like a three-day mandatory
 21 --
 22 MR. KNIGHT: As far as what?
 23 ATTORNEY GENERAL KOSTER: Well, in
 24 terms of when the police have been called to the
 25 house and the offender has been taken out of the

1 house forcibly that there's a mandatory
 2 three-day cooling off period or whatever it
 3 would be?
 4 MR. KNIGHT: I'm sorry. I don't know
 5 that.
 6 ATTORNEY GENERAL KOSTER:
 7 Representative Kelly?
 8 REPRESENTATIVE KELLY: Here's the
 9 downside, I think, of a mandatory cooling-off
 10 period. A mandatory cooling-off period implies,
 11 oh, this is something that isn't -- just --
 12 well, everybody will cool down. This will be
 13 fine. As distinct from that what we have here
 14 is domestic terrorism and -- I mean, he's just
 15 spent 2-1/2 hours holding a gun to her head
 16 while he's drinking a six-pack. Oh, we'll let
 17 you cool down. Everything will be fine.
 18 ATTORNEY GENERAL KOSTER: In terms of
 19 where mandatory state action comes in. I mean,
 20 if -- that's what the order of protection is.
 21 If the criminal penalty for violating an order
 22 of protection is raised, anything that is an
 23 extended period of separation should be --
 24 REPRESENTATIVE KELLY: Oh. I see. In
 25 addition to.

1 ATTORNEY GENERAL KOSTER: -- should be
 2 -- should not be state initiated. I mean, if
 3 there was a STOP cap that was put in by the
 4 State, and then essentially sort of the
 5 responsibility would flow back to the victim to
 6 say okay, I want that three-day piece of state
 7 action to be extended indefinitely for -- but --
 8 go ahead. I'm sorry.
 9 MR. KNIGHT: Okay. First of all, the
 10 burden is on the victim to apply for this, but
 11 also a huge problem in these cases when we're
 12 talking about issuance of these ex parte orders
 13 is actually getting service on the defendant.
 14 Where do you find them? It's very difficult a
 15 lot of times. Sometimes they can be found in
 16 court if they appear for arraignment. You know,
 17 we do that a lot. But, you know, some judges
 18 don't require people to appear for their
 19 arraignment. They'll just allow the defense
 20 attorney to get involved and to waive
 21 arraignment right there. So the defendant isn't
 22 available, and so service is a massive problem.
 23 And then when we're talking about
 24 attaining full orders in these cases, the victim
 25 must appear in court. And now, you know, if

<p style="text-align: right;">Page 54</p> <p>1 we're going to -- if we're going to have a 2 contested hearing, the victim a lot of times 3 must testify against the defendant in order to 4 get this full order of protection. A lot of 5 times at that point the defendant is represented 6 by an attorney and here we go again. We've got 7 another opportunity to cross-examine this 8 victim. So we're putting all this burden on the 9 victim in these cases when we're dealing with ex 10 parte and full orders of protection. 11 Now, this -- there's this age-old issue 12 that we have of balancing the need for 13 accountability of an offender with balancing the 14 wishes of a victim in a particular case. And, 15 you know, a lot of times for whatever reason 16 victims do not want to assist, but we in some 17 cases are going to go forward if a victim does 18 not want to assist, and we'll take into 19 consideration a number of different factors; the 20 severity of offense, the defendant's criminal 21 history, whether or not there were children 22 involved, whether or not the defendant has made 23 threats to commit future acts of violence which 24 happens a lot against this victim. 25 So sometimes we will actually go to</p>	<p style="text-align: right;">Page 56</p> <p>1 Swingle. He's a tremendous prosecutor down in 2 Cape Girardeau County. I would feel proud to 3 call him my friend. I read that book right 4 after it came out, and in 2007 he wrote in his 5 book that only four states -- only four states 6 in the United States still have this provision 7 on the books that allows a spouse who has been 8 abused in one of these domestic violence 9 situations to invoke the spousal privilege which 10 deprives us of this tool that we have as far as 11 using prior inconsistent statements. I would 12 advocate for that spousal privilege to be done 13 away with. 14 You know, I really don't have anything 15 more except if you have any questions, I'd be 16 happy to answer them. 17 ATTORNEY GENERAL KOSTER: Colleen? 18 MS. COBLE: Ironically one of the No. 19 1 issues from an advocacy community is to 20 maintain spousal privilege, and we talked about 21 this at the St. Louis hearing. Primarily 22 because the way I described it before; the 23 entire authority and power of the State is being 24 brought to bear on this offender and yet they 25 cannot guarantee that he won't re-offend,</p>
<p style="text-align: right;">Page 55</p> <p>1 trial without victim cooperation. And we do 2 have one good law on the books here, it's 3 491.074. This allows the State to call the 4 witness, which a victim will a lot of times 5 recant, and then under this statute we can call 6 a police officer typically, or maybe another 7 witness, to testify about statements that the 8 victim gave that would be prior inconsistent 9 statements, and we can use those statements as 10 substantive evidence. 11 That process works. It works in some 12 cases. I'm not saying we do it in all these 13 cases, but it works in some cases. It doesn't 14 work when the victim happens to be married to 15 the defendant. Because in that situation the 16 victim can get up on the stand and invoke the 17 spousal privilege and then there is no testimony 18 at all. There are no inconsistent statements to 19 use. 20 I agree 100 percent with Jason Lamb's 21 No. 1 suggestion in his letter to you, 22 Mr. Koster, and that is that the spousal 23 privilege in the State of Missouri must be done 24 away with. You know, there's a great book, 25 Scoundrels to the Hoosegow, written by Morley</p>	<p style="text-align: right;">Page 57</p> <p>1 threaten, have family members involved to 2 threaten, friends. The system isn't able to 3 protect women and they know it better than 4 anybody else. So doing away with spousal 5 privilege -- I doubt in your office because of 6 your commitment and the work of your assistant 7 prosecutors and staff that there would be a time 8 when a women would be threatened with jail or 9 put in a very dangerous situation because she's 10 being forced to testify, but I can't guarantee 11 that's not going to happen in communities around 12 the State. 13 And spousal privilege is one of the 14 last bits of law that actually protects women 15 from being put in a very dangerous situation 16 when the intent is on prosecuting the case no 17 matter what. 18 MR. KNIGHT: Well, I think -- you know, 19 I respect your opinion, of course. You know, I 20 know you had -- over the years you've been 21 involved in a number of these cases, but, you 22 know, I think that once again we're talking 23 about -- you know, these offenders know this. 24 After a while they know, you know what, 25 eventually the State isn't going to be able to</p>

1 do anything. I can go ahead and punch my wife.
 2 The State isn't going to be able to do anything
 3 because she's going to get up on the stand and
 4 she's just going to go ahead and invoke. So
 5 they can't use those prior inconsistent
 6 statements. And then what happens is we wind up
 7 with the victim who's bearing -- all the
 8 pressure is placed on her to invoke that
 9 privilege. And I don't think that that's fair,
 10 you know, in a lot of these circumstances,
 11 because we know why they're invoking a lot of
 12 times because it has to do with victim
 13 manipulation.

14 You know what we have happen in these
 15 cases?

16 MS. COBLE: It's because they're
 17 afraid. It's not manipulation when you know for
 18 a certainty that a certain act will occur. So
 19 it's --

20 MR. KNIGHT: Yeah. And that's -- we're
 21 never going to be able to guarantee the safety
 22 of --

23 MS. COBLE: Bingo.

24 MR. KNIGHT: -- anyone whether or not
 25 --

1 MS. COBLE: And that's the issue.

2 MR. KNIGHT: -- whether or not you're
 3 married or not for any period of time, but the
 4 thing is we have to hold offenders accountable
 5 --

6 MS. COBLE: That has to be said again.

7 MR. KNIGHT: -- certainly for that case
 8 and --

9 MS. COBLE: That has to be said out
 10 loud. You can never --

11 MS. KNIGHT: -- and to -- and to deter
 12 future criminal conduct. You know what we have
 13 happen in these cases a lot of times? We'll
 14 have the atomic bomb get dropped on us by
 15 defense attorneys. Hey you know what? At the
 16 time of the assault defendant was not married to
 17 victim, and then low and behold one week before
 18 trial we're presented with a marriage
 19 certificate. Now, if we're going to get -- if
 20 we're -- if it's going to be public policy to
 21 encourage people to get married under those
 22 circumstances then I think that that's not
 23 really something that we want to have happen.

24 ATTORNEY GENERAL KOSTER: Can I ask
 25 Colleen a question?

1 MR. KNIGHT: Sure.

2 ATTORNEY GENERAL KOSTER: This is a
 3 devil's advocate question because I'm undecided
 4 on this issue. So to play devil's advocate on
 5 Dan's side of the issue for a second. If you
 6 were on the Senate floor, you had a vote on the
 7 Senate floor, given your rationale in favor of
 8 not changing the spousal privilege at all, if
 9 there was a serious proposal for a let's call it
 10 a significant other privilege to extend the same
 11 protections that the spousal privilege gives
 12 wives to essentially significant others, would
 13 you vote to expand --

14 MS. COBLE: Yes.

15 ATTORNEY GENERAL KOSTER: Given your
 16 rationale in favor of the spousal privilege --

17 MS. COBLE: Yes.

18 ATTORNEY GENERAL KOSTER: -- you would
 19 vote to expand spousal privilege to significant
 20 others?

21 MS. COBLE: Because in debates on this
 22 issue it is often cast as a privilege granted to
 23 married women that unmarried women do not have.
 24 And in those debates when the argument is being
 25 made to do away with spousal privilege it is

1 recognized that it actually is a legal
 2 protection for you.

3 MR. KNIGHT: It's a protection for the
 4 defendant. It's a protection for the person to
 5 go abuse and --

6 SENATOR SCHAEFER: The privilege
 7 belongs to the testifier, doesn't it? Because
 8 the spouse can't waive --

9 MR. KNIGHT: Right. Sure. I mean, the
 10 victim certainly can get up on the stand and
 11 testify. We've had that happen. And really the
 12 best case scenario we have -- we don't have to
 13 waive anything. We're going to pursue holding
 14 the defendant accountable and we have a victim
 15 who is willing to assist, and we have that
 16 happen in a lot of cases. And that would
 17 include a spouse that wants to assist.

18 SENATOR SCHAEFER: You know, I think
 19 it's interesting because it shows the complexity
 20 of a lot of what we're dealing with here. And I
 21 recall, I think, back when I was a prosecutor in
 22 one of the MOPS conferences I went to in '96 or
 23 '97, one of the key speakers was a prosecutor
 24 from, I think, Indiana that had been brought
 25 out, and this guy's whole MO was, you know, in

1 these domestic violence cases -- you know, come
 2 hell or high water, you know, I don't care what
 3 the victim says. I plow -- you know, I bring
 4 the cases. You know, who knows how many
 5 situations this guy made worse. But, you know,
 6 that was kind of the -- at the time that was the
 7 theory. How do you develop a mechanism to
 8 prosecute when you have not just an absentee
 9 victim or a victim who won't testify but an
 10 uncooperative victim who recants? And so
 11 obviously I think that the whole concept of how
 12 to deal with these cases since the mid-'90s has
 13 come around back in another way. And, you know,
 14 you point out something else.

15 MR. KNIGHT: You're right, Senator
 16 Schaefer. I mean, the way it used to be maybe
 17 30 or 40 years ago was if a defendant was
 18 successful in manipulating a victim and the
 19 victim came in to the prosecutor and said we --
 20 she, typically the gender is going to be a she,
 21 didn't want to assist --

22 SENATOR SCHAEFER: The case was gone.

23 MR. KNIGHT: -- the case was gone. And
 24 then we did go -- I think the pendulum shifted
 25 almost completely to, okay, we're going to go

1 forward no matter what. And now where we are
 2 is, you know, this is an extremely difficult
 3 weighing process. You know, this isn't math.
 4 This isn't science. We're talking about a lot
 5 of gray areas here.

6 SENATOR SCHAEFER: Right. And the
 7 difficulty we have as lawmakers too is -- as you
 8 pointed out, I mean, we've got incredible
 9 resources in Boone County. You know, probably
 10 some of the best, if not the best, in the State.
 11 But we have to pass laws that are applicable to
 12 all 114 counties, and so the laws that we pass
 13 have to be able to be carried out by counties
 14 which are -- you know, have fewer resources, are
 15 less sophisticated and simply don't have the
 16 community support, some of the other things
 17 that, you know, then make it easier to be in law
 18 enforcement or to be in the prosecutor's office
 19 on some of these domestic violence issues.

20 MR. KNIGHT: And I'll tell you what. I
 21 think that if -- the no-contact provision is
 22 what I initially advocated for here; the big
 23 push to make it a violation to -- or to make it
 24 a violation of the criminal laws to have contact
 25 against a court order. I think that would help

1 with resources because I think that it's
 2 difficult, you know, a lot of times from a
 3 resource perspective to get these orders of
 4 protection.

5 SENATOR SCHAEFER: No. I think that's
 6 a really good idea because then, as you said,
 7 you're not ascribing motive. Because if you
 8 have a murder case and the defendant calls a
 9 witness and says oh, I just wanted to ask him
 10 how the weather was. You know, no one believes
 11 that.

12 MR. KNIGHT: Right.

13 SENATOR SCHAEFER: But the situation
 14 being as it usually is in a domestic violence
 15 case, you have to, you know, somehow disprove
 16 that it was an honorable motive which is a much
 17 harder position to be in as a prosecutor. And
 18 so I like that idea. And, you know, I don't
 19 know if Jason mentioned it before I got here,
 20 but, you know, we do have a group in place, it's
 21 been in place throughout the summer and will be
 22 throughout the fall, to look at revamping the
 23 entire criminal code in the State of Missouri.
 24 I'm on that, Senator Joey Justice (phonetic) is
 25 on that, and Jason has been carrying the

1 laboring oar on that. So that's the place I
 2 think to slip some of these things into what
 3 we're looking at when we come out with a
 4 recommendation for what the General Assembly
 5 will do.

6 ATTORNEY GENERAL KOSTER: Colleen, and
 7 then if it's okay with the panel I'd like to
 8 take a quick 10-minute break.

9 MS. COBLE: Just to put this in
 10 context. In order to get the first major
 11 domestic violence law through, the changes that
 12 are the basis for what we have in place now in
 13 1989, the only way it would pass out of the
 14 House through the judiciary committee was to put
 15 in a clause that says that good faith attempts
 16 to reconcile a marriage shall not be deemed
 17 witness tampering or victim tampering.

18 There is a hole that was purposely put
 19 in the law because there is still -- there was
 20 still that belief that these were family matters
 21 that shouldn't be going through the courts.
 22 Unfortunately, there is still a community in
 23 positions of authority in certain communities
 24 around the State who still hold to that belief.
 25 So again, I want to express my concerns about

<p style="text-align: right;">Page 66</p> <p>1 what I see as the risks and dangers to women 2 from the removal of spousal privilege being that 3 some of your less enlightened colleagues perhaps 4 -- 5 MR. KNIGHT: Well, and I appreciate 6 that. 7 MS. COBLE: -- will take a page out of 8 the Indiana prosecutor's playbook and we won't 9 have the result that we want. 10 MR. KNIGHT: And I'll respect your 11 opinion very much, but maybe on that particular 12 issue -- and I thank you very much for your 13 comment there. But on that particular issue I 14 think that we might just have to agree to 15 disagree. And, you know, to tell you the truth 16 I've put it in -- I softened up the terms 17 because I could have quoted from Morley 18 Swingle's book where he considered this to be an 19 embarrassment and everything else to the State 20 of Missouri, and I didn't go that far. But I 21 certainly think that, you know, I'm always going 22 to advocate for the -- for that to be done away 23 with, the spousal privilege, but I respect your 24 opinion. 25 ATTORNEY GENERAL KOSTER: If it's okay</p>	<p style="text-align: right;">Page 68</p> <p>1 today and talk in a forum like this which I'm 2 not familiar with, but I realized, take the 3 selfishness aside, that this is a very important 4 and worthwhile topic. Domestic violence victims 5 do not often get the opportunity to speak on 6 their own behalf so I'm happy to be here today. 7 I'm a detective with the Columbia 8 Police Department. I've been here for ten years 9 with the department, spent seven years as a 10 patrol officer working the midnight beat. For 11 the last three years I've been assigned to the 12 Domestic Violence Enforcement unit, specifically 13 with the major crimes unit as a detective. 14 During my testimony today I would like 15 to share with you basically an overview of what 16 the DOVE unit is. I know Mr. Knight has already 17 touched on that. I'd like to go just a little 18 bit further, explain what the role of a domestic 19 violence detective is, some of the things that 20 we do in our job and our duties. And then as 21 time allows there's four specific areas that I 22 would like to touch on where I think appropriate 23 changes would make law enforcement's response to 24 domestic violence victims better. 25 Those four things are; 1, the ability</p>
<p style="text-align: right;">Page 67</p> <p>1 let's take a 10-minute break. 2 Dan, thank you very much for a very 3 thorough and well thought out presentation. I 4 appreciate your time this morning. We'll 5 reconvene in seven or eight, ten minutes. 6 (Thereupon, the proceedings stood in 7 temporary recess.) 8 ATTORNEY GENERAL KOSTER: I would 9 ask if Detective Bob Dochler could come forward 10 from the Columbia Police Department and talk 11 with us about some of the best practices 12 specifically related to the domestic violence 13 enforcement unit, the DOVE unit that prosecutor, 14 Dan Knight, was discussing earlier. 15 Bob, welcome. Thank you for taking -- 16 thank you for what you do, first of all, and 17 thank you for taking time this morning to talk 18 with us. 19 TESTIMONY 20 BY MR. DOCHLER: 21 Mr. Koster, and members of the panel, 22 thank you as well for, one, the opportunity to 23 be here and address you today and talk to you 24 and, second, for holding these hearings. Quite 25 honestly, I was scared to death to show up here</p>	<p style="text-align: right;">Page 69</p> <p>1 to hold arrested subjects for a minimum of a 2 24-hour period. No. 2, that law enforcement 3 officers need to have the ability to detain a 4 respondent in an ex parte who is still waiting 5 for the service of the ex parte. No. 3, I'd 6 also like to touch on and address a little 7 further the no-contact bond conditions that our 8 judges are graciously putting on the conditions 9 of their bond but they're not being adhered to 10 by suspects or defendants in our domestic 11 violence cases. And then, fourth, if I have the 12 time, would be that in our community, in our 13 state, third degree domestic assault cases with 14 physical injury are misdemeanors unless there's 15 two prior convictions which make them a felony. 16 I'd like to touch on that and see if there would 17 be any room for increasing those to felonies. 18 With that said, I'd go back at kind of 19 an explanation of what the DOVE unit is. The 20 DOVE unit stands for Domestic Violence 21 Enforcement unit. It's history; about 13 years 22 ago my former partner in the DOVE unit, Jeff 23 Westbrook, was instrumental in developing this 24 unit along with representatives of the Boone 25 County Sheriff's Department, probation and</p>

1 parole, Columbia Police Department, a local area
2 women's shelter.

3 The purpose for this was that local
4 jurisdictions were handling domestic violence in
5 different and often ways that were not
6 consistent with each other. I think their goal
7 was to come together -- to bring together lines
8 of communication and to get on the same page,
9 if you will, to work towards our goal, and that
10 is holding offenders accountable and assisting
11 victims of domestic violence. Along with that
12 is the term coordinated community response. I
13 can't say enough about that.

14 Currently, we have one detective from
15 the Boone County Sheriff's Department, two
16 detectives from the Columbia Police Department,
17 myself and Randy Nichols. We have three
18 investigators from Boone -- or assistant
19 prosecutors from the Boone County Court that are
20 assigned specifically to domestic violence, two
21 representatives from probation and parole, two
22 advocates from the women's shelter now called
23 True North, two advocates from the Boone County
24 court system and additional investigators, court
25 liaisons, all part of this program. All right?

1 We meet on a monthly basis to go over
2 case studies, cases we're currently working on,
3 cases we've previously worked on as well as
4 problems that we are seeing with our unit and
5 ways to improve. Basically, it's a forum for us
6 to bring about these problems, offer solutions
7 and work to do a better job in our community
8 helping victims of domestic violence.

9 Another thing I'd like to give a praise
10 on is our relation with the advocates in our
11 community. We have two advocates working
12 directly with detectives. I have one in our
13 office that we see on a regular basis. She
14 splits her time at our office as well as the
15 sheriff's department. We share our reports with
16 them. We work together in a response to help
17 victims and get them the services that they
18 need.

19 Recently, there's been additional
20 changes. Prosecutor Knight talked about Judge
21 Daniels' domestic violence docket which is new
22 and not everywhere in the State of Missouri.
23 It's a great way to streamline, and I'll let her
24 talk more about that if she chooses. Another
25 thing is the recent development through True

1 North Shelter in cooperation with the Columbia
2 Police Department is a domestic violence first
3 responder advocate. This is an effort to have
4 an advocate available. We looked at statistics
5 in our call volume of when was the greatest
6 likelihood for someone after normal business
7 hours to need services, and it's a tough
8 position to fill. Nobody wants to work the
9 hours this young lady is going to work, but she
10 has stepped up, applied for the position, and I
11 think we've got a good person in place now.

12 This advocate is going to respond when
13 an officer finds certain criteria in a domestic
14 violence call. We're talking about first
15 responder blue uniformed officers on the street
16 responding to calls saying these criteria are
17 here. We're going to call out this advocate.
18 She's going to stage in the area, and when it's
19 safe to do so she's going to come in, and we're
20 going to get her in contact with immediate
21 services. I think this is groundbreaking, and I
22 applaud True North for going forward with this
23 and developing this. It's huge.

24 Also new within the past couple of
25 years is a liaison the Court developed to hold

1 -- help hold offenders accountable. We have
2 something called MEND classes in our community
3 which is a batterer intervention group. It's a
4 28-week course mandated by the Court for
5 offenders to attend if they fit the
6 qualifications. There had been problems in the
7 past with accountability; not attending the
8 courses as scheduled, and now there's someone to
9 facilitate that, keep track of it and keep in
10 contact with the Court. I think this is also a
11 great step.

12 Yes, sir?

13 REPRESENTATIVE KELLY: Do you find that
14 that -- you know, I always had trouble with the
15 anger management courses and all like that.
16 None of them ever worked worth a darn. Do you
17 find more success now?

18 MR. DOCHLER: Well, you know, I think
19 especially now with Judge Daniels and her
20 docket, and like Prosecutor Knight said holding
21 their feet to the fire, I think it can only be
22 better. And I think that time is yet to tell.

23 REPRESENTATIVE KELLY: How is that
24 docket different than the docket we used to do?
25 She has both criminal and civil; is that right?

<p style="text-align: right;">Page 74</p> <p>1 I just had the orders of protection. 2 MR. DOCHLER: Right. She is doing the 3 criminal side, from what I understand, to 4 streamline that -- streamline that and get 5 people before the Courts -- 6 REPRESENTATIVE KELLY: At the same 7 time? 8 MR. DOCHLER: At the same time, yes. 9 And I think Judge Schneider is doing the 10 majority of the protection orders. Does that 11 answer your questions? 12 REPRESENTATIVE KELLY: Yeah. Thanks. 13 MR. DOCHLER: You got me off track. 14 SENATOR SCHAEFER: He's good at that. 15 MR. DOCHLER: Basically, I wanted to 16 demonstrate that we do have an open line of 17 communication among all members of our domestic 18 violence unit, and I think that is something we 19 want to share with the rest of the State. 20 Specifically my duties at the police department 21 as a follow-up investigator, we were -- Randy 22 and I wear many hats. Okay? 23 No. 1, is education. We take that 24 seriously, and we have been asked to present all 25 over the State of Missouri. And this started</p>	<p style="text-align: right;">Page 76</p> <p>1 are responsible for their follow-up work in 2 domestic violence cases, and if their call 3 volume is anywhere near that of Boone County 4 Sheriff's Department or Columbia Police 5 Department, a lot of that work is probably not 6 getting done. I think that is a huge area in 7 which our agency and the importance we've put on 8 it helps, because now 24 to 36 hours after the 9 original call detectives such as myself and 10 Randy Nichols are getting these cases assigned 11 to us for follow up. We do follow-up statements 12 from victims, identify holes in the cases to 13 make a good solid case for the prosecution. 14 We're also collecting that necessary evidence, 15 that follow-up evidence which is generally 16 photographs which -- or the largest part to show 17 what those injuries look like three days later. 18 The red mark that the officer saw that night and 19 took a photograph looks drastically different 20 three days later. 21 ATTORNEY GENERAL KOSTER: Can I ask 22 Colleen a question? 23 MR. DOCHLER: Yes, sir. 24 ATTORNEY GENERAL KOSTER: As I -- as 25 much as talking about the spousal privilege is</p>
<p style="text-align: right;">Page 75</p> <p>1 with Jeff Westbrook. He was a wonderful 2 presenter and educator. We spend a good portion 3 of our time traveling to other law enforcement 4 agencies throughout the State, not so much to 5 tell them that this is the best way to do it but 6 to offer them ideas on how we do things in Boone 7 County. And if they can take from that 8 something useful in their community, so be it, 9 and we're happy to do it. 10 Another thing that we do is educate on 11 a local high school and college level. We've 12 been invited into high school classes as well as 13 University of Missouri to speak to their school 14 of social work as well as their education 15 department. Also we find it very helpful to 16 educate people about domestic violence. Young 17 people coming into this world, especially 18 college kids, live in domestic situations and 19 they're not even aware of it. So we like to 20 spread that knowledge. 21 Specifically as an investigator and 22 police officer we do follow-up work. We pick up 23 for law enforcement where the patrol officers 24 leave off. In many communities -- I was talking 25 to a detective from Cole County. Their deputies</p>	<p style="text-align: right;">Page 77</p> <p>1 -- has a first flush appeal to it, this seems 2 like as impactful as anything in keeping a 3 witness -- keeping a victim cooperative. If a 4 detective who understands the issue pays a visit 5 within 36 hours of the police coming to the 6 home, I would imagine that is incredibly 7 impactful. 8 MS. COBLE: It changes everything. 9 When you show up it -- 10 ATTORNEY GENERAL KOSTER: For a 11 secondary statement, because the psychological 12 effect of, you know, I need him out, please come 13 and take him out versus I have now sat down with 14 a detective from my local police department and 15 put my word on the line. Big step forward. 16 MS. COBLE: Well, and I matter. You 17 know, you've shown up. My case matters. And 18 that's -- that engages you in -- and builds the 19 trust that you need to go through with the case. 20 MR. DOCHLER: That is huge, yes. And 21 if I may expound on that? It kind of leads 22 right into my next thing; our case load. 23 Typically our case load at the Columbia 24 Police Department, we receive 80 to 100 domestic 25 violence cases per month. That's split up</p>

1 between two detectives. That's 40 to 50 each
 2 that we require. Okay? Along with what you
 3 said; that face-to-face contact. That is we are
 4 grant funded through STOP. And like you said,
 5 funding and cuts and people, it's a competitive
 6 bid. We need that money to continue on our
 7 goal. One of the things that we would like to
 8 do to increase our service to victims is
 9 increase the face-to-face contact that we have.

10 When we have an incredibly high case
 11 load like we do now and something just -- we
 12 have a homicide or something else happens in our
 13 department that we have to respond to that takes
 14 our resources, our cases don't stop. They
 15 continue to stack up which means our level of
 16 service sometimes drops until we can get caught
 17 back up. That may mean they get a letter
 18 instead of a face-to-face visit or a phone call
 19 instead of a face-to-face visit.

20 ATTORNEY GENERAL KOSTER: Bob, can I
 21 ask you a couple of questions?

22 MR. DOCHLER: Yes, sir.

23 ATTORNEY GENERAL KOSTER: What
 24 percentage of follow-up interactions are
 25 face-to-face -- or -- yes. What percentage of

1 the follow-up actions are face-to-face? And
 2 then how many of those -- break those down
 3 between visits that you pay to the home versus
 4 visits where you've asked the victim to come
 5 into the police station.

6 MR. DOCHLER: And not to shirk the
 7 question, because it's a good question, but it's
 8 a complicated question. I do not have the
 9 percentages of face-to-face. I can tell you --

10 ATTORNEY GENERAL KOSTER: Just
 11 anecdotally what would you guess? More than
 12 half?

13 MR. DOCHLER: Less than half.

14 ATTORNEY GENERAL KOSTER: Less than
 15 half are face-to-face?

16 MR. DOCHLER: Yes.

17 ATTORNEY GENERAL KOSTER: Because you
 18 can't do 80 a month? There's not enough time?

19 MR. DOCHLER: Not enough time. The
 20 ones that we -- and we strive to have
 21 face-to-face contact with are especially the
 22 ones that we want additional evidence.

23 ATTORNEY GENERAL KOSTER: Is standard
 24 practice for the victim to come into the
 25 department or for you to go to them?

1 MR. DOCHLER: There is no standard. It
 2 depends on the victim. Obviously, we would like
 3 to have her in our environment where we have our
 4 equipment handy and if things need to change, we
 5 can, but if that is a hindrance or a problem we
 6 are more than welcome to go out to the -- we
 7 make ourselves available, yes, sir.

8 REPRESENTATIVE KELLY: I want people to
 9 hear what you're saying when you say 80 to 100.
 10 That's CPD.

11 MR. DOCHLER: That's Columbia Police
 12 Department alone.

13 REPRESENTATIVE KELLY: That means
 14 another 50 to 70 in Boone County Sheriff?

15 MR. DOCHLER: I'd say that's a good
 16 possibility.

17 REPRESENTATIVE KELLY: And that's
 18 consistent with the docket that I had. That
 19 means minimum 130 a month actual cases where the
 20 police become involved in Boone County. That
 21 means 1500 women or cases a year in Boone County
 22 alone. And if you extrapolate that out to the
 23 State, people think of this as some kind of
 24 ancillary or small issue. This is a huge both
 25 health and safety and public policy issue, and

1 people ought to perceive the numbers involved in
 2 what is actually domestic terrorism.

3 MR. DOCHLER: Yes, sir. And if I may
 4 add to that. Statistics show that the majority
 5 of people in an abusive relationship don't
 6 report. So this is just the tip of the iceberg
 7 of people that are reporting, not the vast
 8 majority that's going unreported that the
 9 domestic violence shelters are seeing or the
 10 hospitals are seeing.

11 REPRESENTATIVE NEWMAN: Excuse me,
 12 Detective. Is there a way that you can address
 13 real quickly what your department does in terms
 14 of incidents of firearms when you are first
 15 responding to situations in terms of what you
 16 are allowed to do in terms of removing the
 17 firearms if you feel like there's a definite
 18 threat?

19 MR. DOCHLER: Yeah. If there's a
 20 definite threat and firearms present or used in
 21 violation of the crime, they're collected as
 22 evidence and removed from the scene.

23 REPRESENTATIVE NEWMAN: Thank you.

24 MR. DOCHLER: I've kind of gotten away
 25 from time here. I don't know how close you're

1 going to hold me to the time constraint. I
2 don't want to hold things up. But basically,
3 that's an overview of the DOVE department in a
4 nutshell.

5 We teach our own offices evidence-based
6 prosecution, and that is something that we think
7 is important to the successful prosecution of
8 these cases. There are some -- I was asked to
9 kind of brainstorm and think of some areas that
10 I thought would be beneficial to us as law
11 enforcement through a law enforcement
12 perspective to help in this crusade against
13 domestic violence.

14 No. 1, the ability to hold arrested
15 subjects for a minimum of 24 hours. Why is this
16 important? I'd like to explain. Quite often --
17 Prosecutor Knight was exactly correct.
18 We arrest someone for domestic violence.
19 Usually -- and I have seen it with my own eyes.
20 Within two to three hours the person has been
21 processed through our facility, processed
22 through Boone County, posted bond and is out.

23 Recently, we had a situation where a
24 suspect was arrested for domestic violence;
25 boyfriend and girlfriend, did not live together.

1 He went to jail, was allowed to post bond. She
2 went to a friend's house for safety. She went
3 back to her residence to obtain some personal
4 items so that she could extend her stay away
5 from home until she felt it safe to come back,
6 and when she came back to get her property, he
7 had broken into the house and was in her bed
8 within a few hours. This should not be
9 occurring.

10 I believe that if we were able to put
11 something like this in place, a mandatory hold
12 on domestic violence arrests, the benefits would
13 be huge at multiple levels. One, there would be
14 a definite cooling-off period. Domestic
15 violence is full of emotions and a period like
16 that would give people the opportunity to cool
17 off. Second, suspects of domestic violence are
18 quite often intoxicated or under the influence
19 of some other kind of drug. This would be a
20 sobering up period. Third, domestic violence
21 victims; we often -- on the street we give them
22 several remedies. Hey, let us help you get out
23 of this situation. We always question why are
24 they going back to the situation.

25 Well, you know what? If we'd step back

1 and take a look, we're asking victims to make
2 life-altering changes; to make moves of
3 households, children sometimes, property, all
4 things that are of great value to them, and
5 we're asking them to do it in a timeframe of a
6 few hours in fear that he's going to come back
7 out and catch them in the process.

8 I think this would be a huge step in
9 giving them the time to think about orders of
10 protection with a clear mind, think about the
11 services that are available to them and get
12 connected with victim services, such as True
13 North Shelter, and then take it a step further;
14 if they're ready to leave an abusive
15 relationship to give them the opportunity to get
16 out.

17 Second, if I have -- am I over?

18 ATTORNEY GENERAL KOSTER: Go ahead,
19 Bob.

20 MR. DOCHLER: Currently, law
21 enforcement officers in our state such as city
22 police officers do not have the ability to hold
23 someone that they come across that is a
24 respondent of an ex parte and has not yet been
25 served. To help clarify that let me give you an

1 example, a quick one.

2 I arrest someone for domestic assault.
3 He bonds out within a few hours. The victim in
4 the meantime has obtained an order of protection
5 or an emergency order of protection but he
6 bonded out before he could get served. I run
7 into him at QuikTrip, and I make a simple
8 inquiry through our joint communications, has
9 this gentleman been served yet? No. He got out
10 before he could be served. Unless I have
11 another violation I cannot hold this individual
12 until a Boone County Sheriff's deputy responds
13 with the appropriate paperwork. If we're
14 looking at victims' safety this is a problem.

15 REPRESENTATIVE KELLY: And tell why
16 that's important, though, to serve them. Nobody
17 understands that if you can't serve them, you
18 can't get the criminal violation.

19 MR. DOCHLER: If it's not served, it's
20 not in effect. Okay? That's why Prosecutor
21 Knight mentioned the no-contact provision. I
22 think that is huge. If we could make that --
23 it's one of the loopholes that could be plugged.
24 You know, orders of protection are not the best
25 option for every victim of domestic violence.

1 It's just -- it's not the best option for them
 2 all.
 3 The ones who choose not to, it's kind
 4 of nice to know that there's a mandated
 5 condition through this bond that he can't have
 6 any contact with her. And folks, sometimes they
 7 don't even wait to get out of jail before they
 8 start to contact them. We've got jail calls to
 9 prove it. They'll call wanting them to post
 10 their bond. They start in with this
 11 intimidation towards victim tampering, but,
 12 again, it is something that is very difficult
 13 for law enforcement to prove.
 14 We all know that probable cause to
 15 arrest does not always equate to proof beyond a
 16 reasonable doubt for successful prosecution, and
 17 --
 18 ATTORNEY GENERAL KOSTER: Bob, there
 19 are constitutional issues so I don't even know
 20 if what I'm about to say is a good idea, but let
 21 me throw it out there.
 22 MR. DOCHLER: Sure.
 23 ATTORNEY GENERAL KOSTER: What if there
 24 was a -- kind of a three-part process that we
 25 went to; a 12-hour mandatory hold, a 48-hour

1 condition of probation where there is no contact
 2 automatic, and a demand that the defendant or
 3 the subject return to the sheriff's department
 4 at the end of the 48-hour period essentially to
 5 make an affirmation that there's been no
 6 contact? But what it does is it gives you an
 7 opportunity to serve him if there's been a --
 8 some kind of order of protection -- temporary
 9 order of protection has been obtained in the
 10 interim.
 11 REPRESENTATIVE KELLY: I knew there was
 12 a reason I voted for you. That is a really,
 13 really interesting idea. It really is.
 14 MR. DOCHLER: And, you know, sir, in
 15 response I'd say any efforts towards making
 16 changes towards that I'd clap my hands and say
 17 thank you. And, you know, the best you can do
 18 is put it in place, see how it works, and if
 19 additional changes need to be made down the
 20 line, re-assess and go forward.
 21 ATTORNEY GENERAL KOSTER: Do you have
 22 other -- yes, ma'am?
 23 MS. NEWMAN: One other question. For
 24 those of us who are not in law enforcement, can
 25 you explain, just very briefly summarize, what

1 are your conditions for domestic violence
 2 arrests?
 3 MR. DOCHLER: Our conditions for us to
 4 make an arrest?
 5 MS. NEWMAN: Correct.
 6 MS. DOCHLER: I'd be happy to. No. 1,
 7 we make -- generally we're responding to a call
 8 for help; 911 call either from someone involved
 9 or a bystander worried about someone's safety.
 10 Officers arrive on the scene, and they need to
 11 make some quick assessments. One, has a crime
 12 been committed. You know, in this case usually
 13 assault or some of the other violations that go
 14 along with it. We need to determine if it's a
 15 domestic violence situation, and that can --
 16 we're all familiar with the intimate partner;
 17 husband, wife, boyfriend, girlfriend, etc., but
 18 they also include anyone who's 17 years or older
 19 who may live in the same house or be blood
 20 related. It all falls under the domestic
 21 violence laws. We only deal with intimate
 22 partners on a follow-up basis.
 23 To answer your question. We need to
 24 determine, one, has a crime been committed; two,
 25 does it fall under the domestic violence laws,

1 and then once we've established that then
 2 there's a little more work we need to do.
 3 The big thing here is we need to
 4 determine a primary dominant physical aggressor,
 5 and that is not always the person who started
 6 the fight. There's various things that go into
 7 the determination of the primary physical
 8 aggressor. Who has inflicted the most harm.
 9 Who has the most means to. If I'm 6 foot, 5,
 10 weigh 300 pounds, and my victim is 5 foot
 11 nothing and 100, it's easy to see, and you can
 12 articulate why there would be a level of fear
 13 there or intimidation or a safety factor.
 14 Once a primary physical aggressor is
 15 determined we can use past history, past law
 16 enforcement knowledge of situations between the
 17 two, all can go into making that determination.
 18 If we've got probable cause, we've got a
 19 dominant aggressor, we're going to make an
 20 arrest if that person is there. I applaud our
 21 police department. Our policies are more strict
 22 than state law, and they say that. If we have
 23 that equation there; probable cause, dominant
 24 aggressor, we will make an arrest. No
 25 discretion from our officers at CPD.

1 If the suspect is not there, it's
2 mandated that we do certain things too. In
3 addition to offering judicial remedies, how to
4 get an order of protection, offering of medical
5 assistance to the victim, we are mandated by our
6 policy to make a good faith effort to locate
7 that suspect within our shift immediately, put
8 out other information; we call it stop and hold
9 information to all officers; be on the lookout
10 for John Doe wanted for domestic assault. This
11 is his description. And then if we cannot find
12 him in our good faith effort we will go back to
13 the police department and submit a warrant
14 request to the prosecuting attorney's office
15 before the end of our shift. That is how
16 seriously we take this.

17 Does that answer your question, ma'am?

18 MS. NEWMAN: Yes, sir. Thank you.

19 ATTORNEY GENERAL KOSTER: Any other
20 questions for the detective? Thank you, Bob.
21 Not only have you provided a wealth of really
22 good information, but for all the people who are
23 Columbia residents in the room, what they
24 clearly have is not only a person who's making a
25 difference in their community but a guy who very

1 sincerely -- the sincerity of your commitment to
2 learning the issue and making a difference comes
3 through very strongly. So I thank you on behalf
4 of a lot of people who I'm sure want to thank
5 you.

6 MR. DOCHLER: And I thank you for all
7 your time. Have a good day.

8 ATTORNEY GENERAL KOSTER: Next up is
9 Detective Robert Bruchsaler and Catherine
10 Vannier. Detective Bruchsaler is with the
11 investigations and narcotics division of the
12 Cole County Sheriff's Department. Welcome and
13 thank you for coming and speaking with us today.

14 Catherine is the family violence
15 resource prosecutor with the Missouri Office of
16 Prosecution Services. Catherine, if you'd like
17 to sit with us at the witness table, and we'll
18 just go one following the other.

19 TESTIMONY

20 BY MR. BRUCHSALER:

21 Well, thank you for having us. We
22 appreciate it. I'm here to talk about training
23 of law enforcement officers on the academy level
24 and afterwards.

25 What I've learned so far this morning

1 is that I probably should touch on a couple
2 subjects before I get into the actual training
3 part, and I want to talk about victim advocates;
4 system victim advocates.

5 My colleague from Columbia is a very
6 fortunate individual. Columbia is very
7 fortunate to have a DOVE unit and to have so
8 many people available for resources. But when
9 we talk about rural areas such as where I'm from
10 in Cole County and others, I teach at the
11 Missouri Sheriff's Association Academy, and I
12 teach young men and women from across the State,
13 but mainly Central Missouri where we don't have
14 all those resources available to us.

15 What I do have in my county is a victim
16 advocate. She's system based. She's paid by
17 the State, works for our prosecutor. Without
18 her our domestic violence cases would be nil,
19 none. We wouldn't get anywhere. Anywhere fast
20 anyways. Our deputies start the domestic case
21 and they end the domestic violence case through
22 its end goal. If it's a felony level domestic
23 violence case, I will pick it up and assign it
24 to one of my detectives or I'll take it, and we
25 do our best. But without her out there in the

1 frontlines with us every single day our victims
2 suffer. And this is what it's all about. At
3 the end of the day it's about the victim and
4 making sure that that victim gets to the
5 resources that they need to get to and get the
6 help that they need.

7 I can't stress upon this committee
8 enough that there's just not enough of them out
9 there. We have one for an entire county and
10 city; Jefferson City, Missouri, and there's no
11 way she can touch them all. It's impossible,
12 you know. And I've worked with her hand in hand
13 at two, three, four o'clock in the morning,
14 going 36 hours straight, and she's a trooper.
15 And everyone that's like her that's out here in
16 the State of Missouri are the same. So I --
17 it's incumbent upon the State of Missouri to try
18 to get some more of those people out there
19 working for us because law enforcement in a
20 rural community doesn't have the time to follow
21 up the next day or the next two days or three
22 days later to meet that victim face to face. We
23 try our best. We do what we can. But at the
24 end of the day that's the person that does that
25 job for us. All right. Off my soapbox, and

<p style="text-align: right;">Page 94</p> <p>1 onto training.</p> <p>2 We offer 40 hours of basic training for</p> <p>3 domestic violence at the academy level. It</p> <p>4 covers the gamut from what is domestic violence</p> <p>5 to how do we deal with domestic violence, how do</p> <p>6 we respond to the call, what's the safest thing</p> <p>7 to do, how do we help our victim, what are we</p> <p>8 required by law to do, what we're, you know,</p> <p>9 required to let our students know, what they</p> <p>10 have to do for the victim, and at the end of the</p> <p>11 day that's what it's about for me.</p> <p>12 ATTORNEY GENERAL KOSTER: To proportion</p> <p>13 that remind me of the number of hours required</p> <p>14 for a peace officer certification.</p> <p>15 MR. BRUCHSALER: Well, it's minimum of</p> <p>16 40 for peace officer certification. I think the</p> <p>17 statute says 30 but we do 40.</p> <p>18 ATTORNEY GENERAL KOSTER: That's 40 for</p> <p>19 domestic violence.</p> <p>20 MR. BRUCHSALER: Correct.</p> <p>21 ATTORNEY GENERAL KOSTER: But for the</p> <p>22 entirety of the peace officer certification. To</p> <p>23 get POST certified as a deputy sheriff in the</p> <p>24 State of Missouri.</p> <p>25 MR. BRUCHSALER: Minimum is 470.</p>	<p style="text-align: right;">Page 96</p> <p>1 disorders. We list and describe common</p> <p>2 characteristics of victims. We describe the</p> <p>3 emotional effects of domestic violence on</p> <p>4 children. We list elements of emotional abuse.</p> <p>5 We list elements of physical abuse and sexual</p> <p>6 abuse. We describe significance of the power</p> <p>7 and control wheel as it relates to domestic</p> <p>8 violence.</p> <p>9 We list and describe the three phases</p> <p>10 of the cycle of violence. We list and describe</p> <p>11 reasons why leaving is so difficult for victims</p> <p>12 of domestic violence. We list three instances</p> <p>13 or conditions for which immediate response to</p> <p>14 domestic violence calls is mandated by the</p> <p>15 Missouri Adult Abuse Act. We define the term</p> <p>16 primary physical aggressor as it relates to the</p> <p>17 Missouri Adult Abuse Act, and list three factors</p> <p>18 considered when determining the identity of the</p> <p>19 primary physical aggressor.</p> <p>20 We identify two types of protection</p> <p>21 orders available under the Missouri Adult Abuse</p> <p>22 Act and describe the differences between them.</p> <p>23 We list the five criminal terms and conditions</p> <p>24 that may be included in an ex parte and full</p> <p>25 orders. We list three situations or instances</p>
<p style="text-align: right;">Page 95</p> <p>1 ATTORNEY GENERAL KOSTER: 470. So a</p> <p>2 substantial part of the 470 is dedicated; 10</p> <p>3 percent dedicated to this issue.</p> <p>4 MR. BRUCHSALER: I just spent the last</p> <p>5 two weeks teaching a class of students domestic</p> <p>6 violence. It was over a week long.</p> <p>7 I'd like to go over the objectives so</p> <p>8 you know what we're doing in the schools, what</p> <p>9 we're teaching. And I'm just going to briefly</p> <p>10 cover each objective, and then if you have any</p> <p>11 questions about those objectives, please let me</p> <p>12 know, and I'll try my best to answer them.</p> <p>13 They're up there if you want to read them.</p> <p>14 We define the term crisis and identify</p> <p>15 two common crisis responses by victims to law</p> <p>16 enforcement. We explain the difference in</p> <p>17 perception of domestic violence between the</p> <p>18 peace officer and the victim. We define</p> <p>19 domestic violence. We define the term abuse as</p> <p>20 it relates to domestic violence calls under the</p> <p>21 Missouri Adult Abuse Act. We define family or</p> <p>22 household member under the Adult Abuse Act. We</p> <p>23 list the common characteristics of a batterer.</p> <p>24 We identify the main causes of</p> <p>25 battering and how it relates to mental</p>	<p style="text-align: right;">Page 97</p> <p>1 when peace officers are required to make an</p> <p>2 arrest with probable cause under the Missouri</p> <p>3 Adult Abuse Act. We identify when mandatory</p> <p>4 reporting is required under the Missouri Adult</p> <p>5 Abuse Act. We list two services that the</p> <p>6 Missouri Adult Abuse Act requires peace officers</p> <p>7 to provide victims of domestic violence.</p> <p>8 We list and explain the elements of the</p> <p>9 following crimes: First degree domestic assault,</p> <p>10 second degree, third degree, stalking,</p> <p>11 aggravated stalking, interstate domestic</p> <p>12 violence, interstate stalking, interstate</p> <p>13 violation of order of protection, possession of</p> <p>14 a firearm while subject to protection order,</p> <p>15 possession of a firearm while subject to</p> <p>16 protection order, possession of firearm after</p> <p>17 conviction of a misdemeanor crime of domestic</p> <p>18 violence.</p> <p>19 We define the full faith and credit as</p> <p>20 it results to foreign orders. We list the</p> <p>21 circumstances when an officer is or is not</p> <p>22 immune from liability in any civil action</p> <p>23 alleging false arrest, false imprisonment or</p> <p>24 malicious prosecution concerning domestic</p> <p>25 violence situations. We list the general</p>

<p style="text-align: right;">Page 98</p> <p>1 guidelines for law enforcement responses to 2 domestic violence calls. We list primary points 3 that should be included in an officer's 4 investigation and report concerning domestic 5 violence. We list interview techniques to 6 consider during domestic disturbance. We list 7 additional dynamics to heterosexual domestic 8 violence faces by same gender survivors. 9 We describe why coordinated community 10 response to domestic violence is important. We 11 list and describe four profiles of stalkers and 12 demonstrate through role play the proper 13 techniques to diffuse domestic disturbance and 14 the proper methods to handle domestic violence 15 situations. 16 For me when I'm teaching I think the 17 most critical part of this whole thing, and I 18 can go through all these objectives with all 19 these students, is evidentiary issues. For me 20 I'm a proponent of no victim should ever be in a 21 court of law. No need. If an officer is doing 22 their job upfront and is trained properly, they 23 can make such a case to where the victim should 24 never have to step foot in a court of law. And 25 that's what I teach.</p>	<p style="text-align: right;">Page 100</p> <p>1 severely beaten, and how do you handle that. So 2 I teach them compassion, the foremost -- is 3 probably the most important thing when it comes 4 to relations with the victim is compassion. 5 You know, these kids are on their fifth 6 or sixth domestic violence call for the night, 7 their tenth for the week, their fiftieth for the 8 month. You tend to get a little burned out, and 9 it's always good to show them that you need to 10 step back and put your biases in your pocket and 11 realize that you're there for the victim, and 12 that's -- at the end of the day that's what 13 we've got to accomplish is make sure the victim 14 gets justice. 15 ATTORNEY GENERAL KOSTER: Where is the 16 academy located physically? 17 MR. BRUCHSALER: Well, the Missouri 18 Sheriff's Association has academies -- academies 19 all over the state. The one I teach at is in 20 Jefferson City, Missouri. 21 ATTORNEY GENERAL KOSTER: And how many 22 classes a year does the academy rotate through? 23 MR. BRUCHSALER: In Jefferson City we 24 do full time and a part time every year; 25 full-time academy and a part-time academy.</p>
<p style="text-align: right;">Page 99</p> <p>1 I teach them how to make the best case 2 possible; to describe when they're writing their 3 reports the emotional state of both parties, the 4 demeanor of both parties, the photographic 5 evidence, the medical evidence, the follow-up 6 days afterwards to make sure we get those two or 7 three-day later photographs. To bring that 8 victim advocate to bear so that that victim has 9 somebody -- a face to identify with and that 10 person is going to remain cooperative. That 11 they know they have somebody to go to 24 hours a 12 day. 13 When we talk about role playing, you 14 know, I put these young men and women through 15 some pretty heinous stuff. We bring in people 16 that have been prior victims of domestic 17 violence and have them talk to the students. I 18 bring in the assistant prosecutor and have them 19 talk to the students about what it takes to make 20 a case. I bring in the victim advocate and talk 21 about what that person does with the students. 22 When they do these role playing exercises, they 23 do everything from the most violent deadly force 24 situations to the most passive moments where 25 you've got a victim that just won't talk that's</p>	<p style="text-align: right;">Page 101</p> <p>1 ATTORNEY GENERAL KOSTER: How many 2 graduates per year go through the academy in 3 Cole County? 4 MR. BRUCHSALER: Total I would say 5 we're right on the average of about 30 students 6 a year just out of the Jefferson City office. 7 ATTORNEY GENERAL KOSTER: And when you 8 teach the domestic violence segment, is it a 9 solid week for them? 10 MR. BRUCHSALER: Yes. 11 ATTORNEY GENERAL KOSTER: And are you 12 -- you're the only domestic violence professor 13 that they have? 14 MR. BRUCHSALER: Currently. There are 15 others that are just as qualified as I am to 16 teach, but currently I handle that case -- or 17 that -- 18 ATTORNEY GENERAL KOSTER: And the total 19 curriculum is 440 hours you say? 20 MR. BRUCHSALER: 470. 21 ATTORNEY GENERAL KOSTER: 470. So 22 across the State is a 10 percent -- so like 40 23 hours would be 8, 9 percent of that. Is a 24 dedication of 8 to 10 percent of the academy's 25 resources true across the State or is it</p>

1 individual to your academy? Do you know the
2 answer?

3 MR. BRUCHSALER: Well, statutorily
4 they're required to provide that much training
5 at every academy regardless of what academy you
6 go to.

7 ATTORNEY GENERAL KOSTER: Okay.

8 MR. BRUCHSALER: Now, follow-up
9 training afterwards is incumbent upon that
10 department and what they're willing to put
11 forth. You'll find that most departments that
12 I've seen really work hard at making sure that
13 the domestic violence training follow-up after
14 you graduate the academy and you've been on the
15 road for a while and it's part of your regular
16 48 hours every reporting period, they cover it.
17 We do. At least in my jurisdiction.

18 ATTORNEY GENERAL KOSTER: That's the
19 continuing law enforcement --

20 MR. BRUCHSALER: Continuing education,
21 yes.

22 ATTORNEY GENERAL KOSTER: Continuing
23 education requirement is 48 hours a year?

24 MR. BRUCHSALER: Yes. Well, three
25 years.

1 ATTORNEY GENERAL KOSTER: 48 hours
2 every three years?

3 MR. BRUCHSALER: Yes, sir.

4 ATTORNEY GENERAL KOSTER: Other
5 questions? I want to welcome State
6 Representative Mary Still who's joined us this
7 morning. Thank you for coming. Thank you for
8 your service as well.

9 REPRESENTATIVE STILL: Thank you.

10 ATTORNEY GENERAL KOSTER: Colleen, go
11 ahead.

12 MS. COBLE: I just want to follow up on
13 your statement given in our earlier discussion
14 this morning about spousal privilege and your
15 approach to doing investigative work so that the
16 case can be made without a victim's testimony.
17 How widespread do you think that approach is
18 among your colleagues?

19 MR. BRUCHSALER: Well, I can only speak
20 for my jurisdiction, and I preach it every day.
21 Either that's a nasty e-mail for why didn't you
22 take more photographs to, you know, great job.
23 Or when I teach my fellow officers domestic
24 violence I discuss these issues: You need to do
25 a better job of getting photographs of the

1 entire house; how much disarray it's in. The
2 suspect, I need a full frontal photo. I need a
3 full body shot of him. I want to know what his
4 demeanor is.

5 I want to give my prosecutor every
6 possible tool they can have in their tool bag so
7 when they get up in court they can do their show
8 up on the big screen and go, look at him. He's
9 sitting over here in a three-piece suit and, you
10 know, has a nice haircut, but here he is in the
11 wife-beater looking like he's wanting to kill
12 somebody. Not the same guy. You know, the
13 blood trail through the house, the broken
14 dishes, the busted plant holders, whatever it
15 is.

16 We just -- sometimes we don't do a good
17 enough job of getting the evidentiary stuff that
18 we need to make our case. Or I get that two or
19 three photos of the victim's injury but I don't
20 get a picture of the victim. And I want to see
21 her demeanor. I want to see her fear. I want
22 to see her emotional state when we get up on the
23 stand. I want that picture on the wall. That's
24 what makes a jury --

25 MS. COBLE: What do you think is the

1 biggest obstacle to being able -- is it training
2 or is it a combination of training, resources
3 and perhaps even leadership from within the
4 department?

5 MR. BRUCHSALER: All of those things.
6 Every single one of them. It's training. It's
7 lack of resources. It's -- I've got -- I'm
8 stacked up five calls. I've got to get going.
9 You know, I've got to get this victim somewhere
10 where she needs to be. I've moving quick.
11 Supervisor not showing up to the call for
12 whatever reason. Maybe they're on a different
13 call. You know, depending on your manpower
14 really. But it does come down -- at the end of
15 the day it's about compassion and training. You
16 know, I've got to do my best, and that's what we
17 preach at Missouri Sheriff's Association. We
18 try to teach them to, you know, give it
19 everything they've got for that moment. And
20 you've done your job for that day. No matter
21 what happens tomorrow at least we've
22 accomplished this today.

23 ATTORNEY GENERAL KOSTER: Colleen, what
24 is your -- what is your reaction, Colleen, to
25 the training question? I mean, my reaction -- I

<p style="text-align: right;">Page 106</p> <p>1 think I knew but had forgotten that there was a 2 40-hour requirement, but when you consider the 3 fact that 10 percent of training resources 4 approximately are dedicated, at least at the 5 standard peace officer level, because the 6 highway patrol has got a higher training 7 requirement, are dedicated to this, my sense is 8 that the training piece is pretty strong in 9 Missouri. What is your feeling? 10 MS. COBLE: I think as a percentage 11 it's strong. The question is the ongoing 12 training and for officers POST -- they've gone 13 through the POST certified to get their 14 commission, but what are we doing as follow-up 15 and ongoing training. And I know that's a lot 16 of what Catherine does. 17 MR. BRUCHSALER: Well, we have 18 Catherine. 19 MS. COBLE: And there's one person. 20 You know, what are we doing around the State? 21 ATTORNEY GENERAL KOSTER: And there's 22 no mandatory -- you know, to say two hours every 23 three years for domestic violence continuing 24 education. There's no continuing education 25 requirement?</p>	<p style="text-align: right;">Page 108</p> <p>1 extrapolated them for the State, and I got an 2 absolute minimum of 35,000 cases a year in 3 Missouri, and Colleen thinks it's 38 to 40,000. 4 But 35,000 cases a year. You're right now able 5 to train 30 new people a year. 6 MR. BRUCHSALER: Well, that's new 7 people. 8 REPRESENTATIVE KELLY: Right. But that 9 does not -- the State of Missouri could do a lot 10 better. If we take the concept of domestic 11 terrorism seriously, we could be allowing you to 12 train 300 a year. 13 MR. BRUCHSALER: Well, sure. That's 14 not to say 300 aren't being trained a year. 15 Again, I'm just one little satellite spot in one 16 little spot in the State. There are domestic 17 violence trainers all over the State in law 18 enforcement academies. I can't even begin -- I 19 think, you know, the academy can probably talk 20 best to that as far as how many classes they 21 have, how many people are being trained on an 22 annual basis throughout the State. That goes 23 the same for Missouri Police Chiefs Association, 24 Springfield's academy, Kansas City's academy, 25 St. Louis's academy, St. Charles. There's</p>
<p style="text-align: right;">Page 107</p> <p>1 MS. COBLE: No. And part of the things 2 that were discussed at the St. Louis hearing was 3 there's also -- there's no mechanism for 4 evaluation. There's no mechanism in our state 5 to be able to say this is what's going on in 6 Cole County. We can see this by the number of 7 convictions, by the number of arrests, by the 8 number of -- failure to have the repeat offenses 9 again and again with a second victim or a third. 10 This is what we're finding out in these 11 counties, and be able to draw some public policy 12 guidance from it that says that because we had 13 this kind of training and leadership or we had 14 these kind of resources. We don't have that 15 structure in place to be able to know anything 16 other than what we know now which are the bright 17 spots which are the exception and not the rule. 18 REPRESENTATIVE KELLY: You know, to 19 follow up on your question with the training. 20 You say you could train 30 people a year. 21 MR. BRUCHSALER: We could train a lot 22 more but -- 23 REPRESENTATIVE KELLY: You do train 30 24 people a year. Being a numbers geek I was 25 fooling around with the Boone County numbers and</p>	<p style="text-align: right;">Page 109</p> <p>1 several. So it's being done. I just don't know 2 to what scale. I know what I do. 3 I don't think you can legislate like 4 racial profiling. I think what we've found out 5 with racial profiling is that it becomes 6 stagnate, and it's an hour every year, and it's 7 the same hour every year over and over again. 8 There's nothing new. So I don't think you can 9 do that with domestic violence. I think 10 domestic violence -- it's incumbent upon 11 departmental entities to take that on and move 12 forward. DOVE units are great. We'd love to 13 have one. We've allocated space in our new 14 facility to have a DOVE unit. We've got the 15 ground for it to do it. We just need the grant 16 to get it done. 17 ATTORNEY GENERAL KOSTER: To the State 18 reps at the table. One of the issues that has 19 come up with regard to racial profiling -- and 20 it's interesting that you bring this up because 21 there are some sort of training parallels and 22 reporting parallels -- is this issue of agency 23 certification. We -- police agencies, police 24 departments, do not have a mandatory 25 certification in the State of Missouri. If you</p>

<p style="text-align: right;">Page 110</p> <p>1 talk to police chiefs you pretty quickly get an 2 idea that going from where we are now to 3 mandatory certification is an awfully big step 4 to take in one step, but that there is an 5 openness among police departments around the 6 State to encourage an expansion of voluntary 7 certification. 8 Whether it's domestic violence or 9 racial profiling or any of the other things 10 where public policy, you know, is increasingly 11 getting a spotlight on it, bringing best 12 practices across the departments around the 13 State is -- you know, there's 750 departments 14 out there now. 15 A lot of them like Columbia or Cole 16 County are probably in a situation where they're 17 toward the front of the best practices efforts, 18 but a lot are not. And doing more -- thinking 19 more about agency certification is a tool that 20 on a lot of things that we care about as public 21 policymakers is a good way to spread the message 22 across that 750. I think probably it has to be 23 voluntary, but it's an idea that is brewing 24 pretty well, I think, right now among police 25 chiefs across the State.</p>	<p style="text-align: right;">Page 112</p> <p>1 that we as a society are learning when it's not 2 really been our personal experience. And along 3 those lines, I just wondered those of you who've 4 had experience in the courtrooms, how this is 5 with juries and if there's certain parts of the 6 State where it is more accepted and less of a 7 concern than other parts. 8 ATTORNEY GENERAL KOSTER: Dan, do you 9 want to answer that question? 10 MR. KNIGHT: I wasn't listening. 11 ATTORNEY GENERAL KOSTER: The question 12 is how do you feel that juries respond to this 13 issue as a group? 14 MR. KNIGHT: Domestic violence in 15 general? You know, it's hard to say. I think 16 that, you know, certainly those issues need to 17 be explored during jury selection. It's a very 18 important part of any case, particularly in 19 these cases. I mean, what would be the issue 20 there? 21 ATTORNEY GENERAL KOSTER: Whether the 22 implication was there or not that there's an 23 implication that some areas of the State are 24 more culturally, I don't know, forgiving. If 25 that's the right word.</p>
<p style="text-align: right;">Page 111</p> <p>1 Go ahead, Mary. 2 REPRESENTATIVE STILL: Thank you. To 3 pick up on that point. I think what we've seen 4 in society and in my years working in the 5 attorney general's office as well is the 6 mindset. And there is a parallel in some ways 7 to racial profiling. I've always said that 8 about racial profiling; there's a parallel to 9 domestic violence. If you're not in that 10 situation, you don't recognize it. If you came 11 from a solid family and that didn't exist, you 12 don't know about it. And if you're not black, 13 you don't recognize it on the racial profiling 14 aspect of things. So it is things we have 15 learned. 16 I think we used to with domestic 17 violence say well, we don't believe that really 18 exists. And then we evolved as a society and 19 said, okay, it exists but not very often, and 20 then we kind of go through -- and then there's 21 sometimes an attitude I've seen in areas of 22 well, bums marry bums. What are you going to 23 do? 24 I see it as -- best practices as a way 25 to bring standards and acknowledgement of things</p>	<p style="text-align: right;">Page 113</p> <p>1 REPRESENTATIVE STILL: Callused; 2 callused about it. 3 MR. KNIGHT: That could be. 4 ATTORNEY GENERAL KOSTER: I am not -- 5 MR. KNIGHT: That could be. I don't 6 want to disparage any particular county at all. 7 ATTORNEY GENERAL KOSTER: And I'm not 8 sure that's true. I think that no matter where 9 you are in the State, I think you put 12 people 10 together and they take the problem seriously if 11 it's presented seriously. 12 REPRESENTATIVE STILL: Good. I hope 13 you're right. 14 ATTORNEY GENERAL KOSTER: Catherine, 15 the floor is yours. 16 TESTIMONY 17 BY MS. VANNIER: 18 So I wanted to start by saying thank 19 you. It is -- we who do this work and are 20 frontline workers, they are some of the saddest 21 and most traumatic cases that our frontline 22 workers encounter. They take time. They are 23 easy to minimize and tough to sort out, and yet 24 they are some of the most vitally important that 25 our frontline workers encounter every day.</p>

<p style="text-align: right;">Page 114</p> <p>1 It is to easy to get frustrated and sad 2 and full of despair as a frontline worker in 3 this work. So when we get together like this 4 and talk about it and see issues and have 5 discussions and -- so I want to thank 6 Mr. Attorney General and the members of the task 7 force because literally -- and Ms. Coble as 8 well, because this is quite literally a dream 9 come true. So if I stutter or get a little 10 emotional it's because my heart is in my hands 11 because I'm so excited about this opportunity. 12 My job is I am the family violence 13 resource prosecutor for the Missouri Office of 14 Prosecution Services. I provide training and 15 technical assistance and resources to 16 prosecutors, law enforcement and all of our 17 allied professionals. I was asked to talk to 18 you today about training law enforcement, and I 19 do a heck of a lot of it. It is my pleasure. 20 It is one of my favorite -- of course, I have 21 many favorites to this job, but one of my 22 favorite parts of the job because our first 23 responders are so very important to the work 24 that we do. They have such an enormous impact 25 on our cases and how our victims are going to</p>	<p style="text-align: right;">Page 116</p> <p>1 keep it positive and upbeat as we look at this 2 and we talk about what the best way is to 3 respond. This is one of my new favorite slides 4 because one of my parts about this job is how 5 many heros I get to meet across the State of 6 Missouri, and the wonderful things that they do. 7 And one of my jobs, I think, is to inspire folks 8 to be the best they possibly can, and to 9 understand that they are doing just phenomenal 10 work when they respond in a positive and 11 supportive fashion to victims. 12 I have a video that is fairly graphic 13 that I play from the -- that was prepared by the 14 California POST program for peace officer 15 standard training in California. I do use 911 16 calls, other ways of trying to bring home the 17 importance of presenting these cases as strongly 18 as possible in Court. And also to understand 19 the importance of bringing this proof to court 20 at the level of a misdemeanor before it gets to 21 that level of homicide. We do know that the 22 more we can hold abusers accountable at a 23 misdemeanor level, we are doing nothing short of 24 homicide prevention. 25 US Department of Justice tells us</p>
<p style="text-align: right;">Page 115</p> <p>1 survive these situations and how our abusers are 2 going to be held accountable. 3 So I have a little Powerpoint. 4 I took it down from about 120 slides to 20 so 5 it's just going to be real quick. I promise. 6 This is basically a synopsis of the type -- the 7 most common training that I do, and this is to 8 distinguish from what Sergeant Bob was talking 9 about. This is the continuing ed piece. This 10 is a 4-hour class. It has been -- I have done 11 it as long as 8 hours, and so 4 to 8 hours in 12 many, many different jurisdictions around the 13 State trying to reach those law enforcement 14 agencies that maybe don't have the resources 15 that Boone County does. Cole County is one 16 place that I've been a whole lot. Gosh. Bob is 17 probably a little sick of me I've been there so 18 much. But they're good with it, right? 19 MR. BRUCHSALER: They're all good. 20 MS. VANNIER: So the -- I'm going to 21 try to tell you about this because this has 22 worked pretty well. What we have is a series of 23 slides and training examples. I try to use -- I 24 try to keep it lively. I try to keep it lively, 25 try to keep it interactive and most important to</p>	<p style="text-align: right;">Page 117</p> <p>1 between three and four women per day are killed 2 by their intimate partners. That statistic and 3 all the studies that we do drive me nuts because 4 they don't include the children and the grandmas 5 and the peace officers and the innocent 6 bystanders along with the tragic things that 7 happen all the time. So it's very important 8 that we bring that home. 9 We try to use case examples. This is 10 one case example that I use. It's an actual 11 case. What we try to do is look at these and 12 try to figure out what we can learn from them. 13 We try to talk about how to respond to victims, 14 understand the stress reactions that victims may 15 have in responding to these cases. We try to 16 take this -- this is a power and control wheel, 17 but it's one of my favorite versions of the 18 power and control wheel because we try to look 19 -- this is a tool in teaching about domestic 20 violence. We want to look at the dynamic of 21 domestic violence, but I also understand that 22 this is absolutely very useful in law 23 enforcement because it allows for us to -- 24 first, there was some talk earlier about the 25 determination of the dominant aggressor. This</p>

<p style="text-align: right;">Page 118</p> <p>1 is a pie chart to the determination of the 2 dominant aggressor. It is also a way of seeking 3 additional charges because we have to be 4 creative and use every possible charge and every 5 possible tool we have. 6 I have done -- there have been a number 7 of places, Cole County being a very good 8 example, where I've been asked back. So I've 9 tried to continue that continuing ed. So I've 10 developed additional courses. What has come out 11 of our dominant aggressor conversation is a 12 whole new separate class on dominant aggressor. 13 We have now a special issues -- just next week 14 I'll be in Kansas City doing special issues in 15 investigating domestic violence cases; stalking 16 and strangulation. 17 I think absolutely that we need to have 18 a continuing ed requirement on domestic 19 violence. I think it's very important the -- 20 that we also avoid the trap that Sergeant 21 Bruchsalter -- that he was talking about, the 22 racial profiling rut that we've sort of fallen 23 into. So we want to be careful of that, and we 24 want to be sure that we have quality and 25 meaningful training, but we do want to keep up</p>	<p style="text-align: right;">Page 120</p> <p>1 be able to assist us in prosecution. We do know 2 now that a number of our cases are going to 3 require that right of confrontation that the 4 victim be present in court because so many of 5 our cases are delayed reporting, and we don't 6 have excited utterances, and we don't have the 7 immediate investigation that happened. So we 8 talk about that and ways to look at that. 9 We look for additional ways to find 10 evidence. We talk about the importance of 11 follow-up investigation. This is one of my 12 training examples. This is -- a good solid 13 investigation happened in this case. She had a 14 red mark to the eye, domestic assault third was 15 charged. She had a good advocate working with 16 her after the incident was charged who talked 17 her into getting follow-up medical treatment. I 18 think a lot of our victims go without the needed 19 medical treatment after the fact. But she was 20 talked into it. She had a blown-out orbital 21 bone so the case went from a domestic assault 22 third to a domestic assault first because of the 23 help of the advocate in that case. Very, very 24 meaningful help there. 25 So we talk about the different ways</p>
<p style="text-align: right;">Page 119</p> <p>1 that training as much as possible. 2 We go through the statutory 3 requirements, of course, and case law, reasons 4 to care about cases. Of course, we know so much 5 about the impact of children in violent homes. 6 We go through the nuances of handling children 7 in an investigation, how to interview, how to 8 work and document their presence. We 9 specifically talk about the burden of proof; 10 that a prosecutor has a much higher burden of 11 proof than a law enforcement officer. A law 12 enforcement officer is also looking at probable 13 cause, and we're going to beyond a reasonable 14 doubt and working that as well. 15 We look at the legal requirements and 16 documentation issues. Of course, just exactly 17 like the good sergeant talked to us about we 18 want to follow up with that with continuing ed, 19 talk about developments in case law, 20 particularly with respect to the issue of 21 proving cases without victim's cooperation. One 22 of our issues now that we're -- that Dan Knight 23 referred to earlier is right of confrontation. 24 And so we do everything we possibly can to build 25 that case whether or not the victim is going to</p>	<p style="text-align: right;">Page 121</p> <p>1 that the police report is going to affect all 2 the different players in the system. We talk 3 about -- much like the standard POST objectives 4 for the basic training, for recruit training, we 5 talk about the charges that are available. 6 We want to make sure and go over some new 7 developments in the charges and offer creative 8 fact patterns so that we can look at the ways 9 that -- for instance, I often refer to Boone 10 County and how they do things in my training 11 because they're doing such cool stuff. 12 I hold them out as an example elsewhere 13 in the State where they might not know about 14 this otherwise without this continuing ed, where 15 they might not hear about it. So one of my jobs 16 that I see is to bring that news, that -- to 17 preach the word, so to speak, but anyway. Does 18 that sound bad? No? My boss says no. Okay. 19 Good. I am religious, and I do want to preach 20 the right word. 21 So -- and, of course, the importance of 22 their work and the responding to victims 23 supportively and getting them the resources that 24 they need and how much of a difference it can 25 make. So when we talk about what other -- so</p>

<p style="text-align: right;">Page 122</p> <p>1 that's what I do.</p> <p>2 What other training is available in</p> <p>3 terms of continuing education: of course, Bob</p> <p>4 Dochler mentioned that Boone County does get out</p> <p>5 and about in the State, and there are a number</p> <p>6 of individual programs that are doing their best</p> <p>7 to provide training on a continuing basis and</p> <p>8 doing great work. One of the things that I try</p> <p>9 to do is to network these programs so that there</p> <p>10 is some cohesion in that training so that we can</p> <p>11 put our best foot forward and get to every</p> <p>12 possible jurisdiction, because as you mentioned</p> <p>13 there are almost 800 law enforcement agencies in</p> <p>14 the State of Missouri, and we have a big giant</p> <p>15 state to cover to get that consistency.</p> <p>16 We have national training, of course,</p> <p>17 that's available. It's, of course, expensive</p> <p>18 and hard to get people to. We do our best to</p> <p>19 try to get scholarship information to people so</p> <p>20 that we can get them out there. I have a</p> <p>21 statewide annual conference that I've done.</p> <p>22 We're about to sign a contract for our fifth</p> <p>23 annual which will be next year in 2011 which is</p> <p>24 always POST certified, and we have a number --</p> <p>25 an increasing number of law enforcement officers</p>	<p style="text-align: right;">Page 124</p> <p>1 our larger communities, yes, but even in smaller</p> <p>2 communities that are interested in studying</p> <p>3 these tragedies and learning from them and</p> <p>4 strengthening our system so that a victim never</p> <p>5 dies in vain. And that's another</p> <p>6 multidisciplinary effort that needs to happen</p> <p>7 here in the State of Missouri so that we can</p> <p>8 move forward beyond those tragedies.</p> <p>9 We also know that training is</p> <p>10 perishable. It needs to be reinforced</p> <p>11 constantly and continually. Those who know me</p> <p>12 and hear me preach know that gentle relentless</p> <p>13 pressure is one of my mottos. I think that we</p> <p>14 -- when we are responding to these cases we have</p> <p>15 to keep up the pressure. We have to have</p> <p>16 consistent policy enforcement. Part of that</p> <p>17 consistency is feedback, constant feedback;</p> <p>18 good, bad and ugly. Honest, direct and</p> <p>19 respectful feedback where we work with each</p> <p>20 other to know what's working and what's not. I</p> <p>21 think that part of that feedback, though, is to</p> <p>22 talk about what's working and the gratitude that</p> <p>23 we have for a job well done.</p> <p>24 So often, especially our first</p> <p>25 responders, don't get to see the end result.</p>
<p style="text-align: right;">Page 123</p> <p>1 that come to that.</p> <p>2 We -- but we do need to look at what</p> <p>3 else can help, what else we can do. The special</p> <p>4 units make such a difference. Where we have the</p> <p>5 resources they make a huge difference. But</p> <p>6 they're not everywhere, and there are places</p> <p>7 where there is no special designated person, and</p> <p>8 I think it helps to have a designated person; in</p> <p>9 a large or small jurisdiction to have somebody</p> <p>10 whose job it is to know about this stuff. To</p> <p>11 get the training, to foster that teamwork. I</p> <p>12 have seen so many instances where one motivated</p> <p>13 person in a community, large or small, can</p> <p>14 really, literally change the world and make such</p> <p>15 a huge difference.</p> <p>16 In terms of fostering teamwork, of</p> <p>17 course, I appreciate the work very much, I can't</p> <p>18 say that enough, of this panel, but I also think</p> <p>19 that an ongoing multidisciplinary statewide</p> <p>20 commission would help with the issues that we're</p> <p>21 talking about here. We've also mentioned, I</p> <p>22 don't think today yet, but in St. Louis,</p> <p>23 enabling legislation for fatality reviews. We</p> <p>24 do not have any enabling legislation here in the</p> <p>25 State of Missouri, and we have several groups in</p>	<p style="text-align: right;">Page 125</p> <p>1 They don't get to hear about the lives that</p> <p>2 they've saved or -- they're just called out to</p> <p>3 the next case or, you know, the next time it</p> <p>4 happens again in the same family, and they don't</p> <p>5 get to see the children that grow up to be</p> <p>6 prosecutors and law enforcement officers instead</p> <p>7 of victims and prisoners, and that's important.</p> <p>8 I think that's important that we have a system</p> <p>9 of recognition here in the State of Missouri to</p> <p>10 allow -- to recognize those officers and the</p> <p>11 work that they do.</p> <p>12 Before I finish off I have a story that</p> <p>13 I like to share often in my trainings that a law</p> <p>14 enforcement officer shared with me about a case</p> <p>15 that he went to early in his career. It was a</p> <p>16 domestic call, and it was in a remote area, and</p> <p>17 he was a one-man car as most of our officers</p> <p>18 are. He -- it was mom and dad and a</p> <p>19 five-year-old girl on the scene. Mom and dad --</p> <p>20 very volatile scene. He couldn't get dad calmed</p> <p>21 down, and he decided that he was going to take</p> <p>22 dad back to the station before he came back and</p> <p>23 completed his investigation. And he said as he</p> <p>24 drove off he saw momma and the little girl</p> <p>25 holding momma's hand in the -- there was a</p>

1 picture window in the front of this house --
 2 standing in the picture window, and he couldn't
 3 read them. Their faces were like this. He
 4 said, I don't know what I'm coming back to.
 5 When he got back the little girl had drawn him a
 6 picture, and it was a picture of him driving her
 7 dad away in the patrol car and it said, thank
 8 you. And he talks about that. I've met him a
 9 couple times now. It's that kind of motivation
 10 that we need to keep up in these cases, and
 11 that's how we're going to get good consistent
 12 response.

13 ATTORNEY GENERAL KOSTER: Thank you,
 14 Catherine, for a great presentation and for the
 15 work that you do all over the state of Missouri.

16 Questions for Catherine?

17 REPRESENTATIVE STILL: I have one.

18 ATTORNEY GENERAL KOSTER:
 19 Representative Still?

20 REPRESENTATIVE STILL: You were talking
 21 about a part of your presentation is about the
 22 dominant aggressor. So I guess is it you kind
 23 of keep up with psychological studies and
 24 warning signs; is that what you're talking
 25 about?

1 MS. VANNIER: Absolutely. Absolutely.
 2 Good question. Yeah. We have -- it's a very
 3 nuance determination. Bob mentioned the role
 4 playing that he does in the academy. That's a
 5 perfect example because it can be very hard for
 6 law enforcement to sort out. You know, they
 7 often arrive on scene and everybody is screaming
 8 at each other, and they have to figure out
 9 what's really going on. So looking for that
 10 imbalance of power and control that -- where one
 11 party is in control of the other, looking for
 12 ways to determine who's telling the truth and
 13 who's not. Looking for motivations where a
 14 victim might even not be completely honest
 15 because she's got her own safety and her
 16 children's safety to consider after law
 17 enforcement leaves that night.

18 REPRESENTATIVE STILL: Are there
 19 certain crimes or previous crimes that are
 20 indicators or --

21 MS. VANNIER: Well, I mean, certainly
 22 the law says we have to look at the history of
 23 domestic violence in a relationship in order to
 24 determine who is the dominant aggressor. The --
 25 so absolutely we want to look for that history

1 of violence. We want to look for that history
 2 of threats. We do know that there are in other
 3 states, Illinois and Ohio come to mind, mandated
 4 risk assessments that happen before somebody is
 5 to post bond. The -- so there are risk
 6 assessment tools and locality assessment tools
 7 that look at, for instance, stalking, prior
 8 sexual assault, threats to kill. Those are all
 9 indications of big danger in a family.

10 ATTORNEY GENERAL KOSTER: What is your
 11 recommendation in terms of continuing education,
 12 number of hours, say, for a three-year period
 13 which is how the system is set up now? I mean,
 14 from -- if you're thinking -- if you were in a
 15 legislative position what's the number that you
 16 would recommend?

17 MS. VANNIER: I would say at least four
 18 hours a year. I would almost like to see -- I
 19 know Boone County had a program for a while
 20 where they were training a full day every year.
 21 And, you know, you see these phenomenal
 22 investigations that come out of Boone County and
 23 you think a day every year they talk about this
 24 stuff and remind themselves of what needs to be
 25 done, and that's great.

1 ATTORNEY GENERAL KOSTER: Detective, do
 2 you have an observation on that question; the
 3 number of hours per three-year period? It's a
 4 48-hour commitment per three-year period now?

5 MR. BRUCHSALER: I don't know that a
 6 day is enough but a day will do. I don't think
 7 that you can do it like racial profiling
 8 however. I think it has to involve people like
 9 Colleen. People like Catherine have to be
 10 involved in that process as to what kind of
 11 training. It has to be updated constantly.
 12 Things change every day so --

13 ATTORNEY GENERAL KOSTER: Let me ask
 14 another question that relates to the racial
 15 profiling issue that has arisen. One of the
 16 benefits of the -- one of the mandates of racial
 17 profiling which is why it is sometimes -- you
 18 know, it is a bureaucratic challenge for some
 19 agencies. But what we're doing is we're
 20 mandating that certain data points that we
 21 ordinarily wouldn't turn over to the Highway --
 22 that wouldn't be accumulated by the Highway
 23 Patrol, if the technical -- the bureau of
 24 statistics. I'm missing the name right now, but
 25 their statistical bureau that puts together the

<p style="text-align: right;">Page 130</p> <p>1 statewide reports. We collect more data on 2 racial profiling than we do on burglaries, for 3 example. 4 Are there data points specific to 5 domestic violence that would be valuable on a 6 statewide level to collect but we are not 7 collecting now? 8 MR. BRUCHSALER: I think for me it's an 9 evidentiary issue. What are you doing as far as 10 collecting evidence? What are you doing to make 11 the best case possible to bring to court to get 12 a conviction? So anything conviction related 13 would be ideal. 14 ATTORNEY GENERAL KOSTER: And I'm not 15 talking about data points that -- in terms of 16 making a specific case, but in terms of looking 17 at the issue and understanding the issue as a 18 statewide phenomena. 19 Are there data points, Catherine, in 20 your mind that -- looking at it from a statewide 21 perspective that should be considered by the 22 Highway Patrol? 23 MS. VANNIER: Absolutely. I think that 24 right now it's -- from my understanding of how 25 the data is collected, that there's a lot of</p>	<p style="text-align: right;">Page 132</p> <p>1 ATTORNEY GENERAL KOSTER: If you have 2 -- in the coming days if you have more time to 3 think about that question and respond to it 4 maybe with a supplemental memo to Joan, that 5 would be great. 6 MS. VANNIER: Great. Thank you. 7 ATTORNEY GENERAL KOSTER: Senator? 8 Anybody else have any questions? If that is the 9 case, we've been going for the full morning. 10 Why don't we take, let's see, about a 30-minute 11 lunch? 12 MS. GUMMELS: 12:45. 13 ATTORNEY GENERAL KOSTER: 12:45 14 reconvene. Okay. Thank you. We look forward 15 to starting up at 12:45. 16 (Thereupon, the proceeding was held in 17 temporary recess.) 18 ATTORNEY GENERAL KOSTER: People will 19 begin filtering back, but we'll dive in here to 20 stay on schedule so that we can finish up by 21 three o'clock. The next presentation is from 22 Greg Linhares who I've known for quite some time 23 from the State Court Administrator's Office to 24 talk about responsibilities related to domestic 25 violence that face the court clerks.</p>
<p style="text-align: right;">Page 131</p> <p>1 subjectivity to the way the data is collected. 2 So that the answer when you look at any given 3 case is it depends on whether that's going to be 4 reported. I think that we need to broaden our 5 definition of how we track homicides; domestic 6 violence related homicides. Absolutely. 7 I think it's significant that even in 8 our court system right now we don't have a way 9 to track the number of criminal cases filed 10 every year that are domestic violence related. 11 We have in our prosecutor case management system 12 a way to mark our cases as domestic violence 13 related, but we don't have that in our court 14 system right now. 15 So quite literally I've worked with 16 OSCA's technical people in the past to look at 17 the number of domestic assault third charges 18 filed each year, but that doesn't give us an 19 indication of the number of cases filed. I 20 think that if we could have more -- less 21 subjectivity in the reporting and more 22 objectivity, more clear standards, concise 23 definitions on what counts as defense domestic 24 violence, that is, again, well-trained on, that 25 we could do a great job. Absolutely.</p>	<p style="text-align: right;">Page 133</p> <p>1 With Betsy's return to the room it just 2 reminds me that there are two things that I want 3 to say for the record before we get going. One 4 is that the minimum statewide training for peace 5 officers in Missouri now is 640 hours. It is 6 not the 440 that is used to be. It's been upped 7 to 640. And the recognition of the point that 8 if we are thinking seriously about increasing 9 continuing education requirements for police 10 officers that we should give equal consideration 11 for continuing education for judges and 12 prosecutors as well who are an equal part of 13 this system. I think there is a tendency, I 14 think, sometimes in Jefferson City to place new 15 continuing education restrictions on law 16 enforcement personnel and forget that there are 17 two other legs of that effort; prosecutors and 18 judges that are equally as important. 19 Greg, the floor is yours. 20 TESTIMONY 21 BY MR. LINHARES: 22 Thank you, Attorney General Koster and 23 members of the panel. I appreciate the 24 opportunity to come talk to you today. I notice 25 that you mentioned training, and I just want to</p>

<p style="text-align: right;">Page 134</p> <p>1 echo the importance of training from the 2 perspective of the courts as well. That's a 3 critical piece that we are going to continue to 4 have to engage in different ways and try to find 5 creative ways to train, new ways to train, and 6 train in an ongoing fashion as Colleen was 7 pointing out earlier. 8 I think we do a decent job at least of 9 informing people of the requirements of their 10 job with regard to domestic violence, but as 11 clerks become used to dealing with their jobs on 12 a daily basis and you see an increasing number 13 of domestic violence filings every year, we need 14 to help clerks understand and differentiate 15 between types of tasks that are involved with 16 different types of domestic violence, be it 17 stalking or traditional, if you will, domestic 18 violence, and how to handle those different 19 types of cases and differentiate the ways in 20 which they ought to be treated. 21 I think the clerks intend to speak 22 about that directly as well. Perhaps in Kansas 23 City. I know they had an interest in doing 24 that, and I would encourage the panel to have an 25 opportunity to speak directly with a member of</p>	<p style="text-align: right;">Page 136</p> <p>1 somewhere like 11 or 12-percent increase. 2 Child orders of protection went from 8,171 to 3 9,913. So that's about a 20-percent increase. 4 We do not see the same increase on the 5 criminal side in terms of the violations of 6 orders of protection charges. We had 2,433 in 7 fiscal 2007, and in fiscal 2009 we have 2,079. 8 But those are statistics strictly related to 9 those felonies and misdemeanors associated with 10 violations of orders of protection. So there's 11 a whole series of cases that's not included 12 there when you're talking about domestic assault 13 and what have you. So there is some need, I 14 think, for clarification when clerks are 15 entering data. And that's maybe something that 16 could be addressed via statute or -- somewhat 17 through training but I think also through 18 statute. 19 In terms of federal reporting to NICS, 20 the federal government would like you to report 21 any instance where there is a domestic piece or 22 involvement, but if there's not a necessity in 23 the case as charged by the prosecutor to prove 24 up a domestic relationship of any kind, that may 25 not appear on the record. So there's a data gap</p>
<p style="text-align: right;">Page 135</p> <p>1 that association at the next meeting. I think 2 that's happening. I think that would be 3 educational. I think they would do probably a 4 better job explaining that then I would. 5 I will talk somewhat about the 6 responsibilities of court clerks but also about 7 just the responsibilities of the administration 8 in general and perhaps provide some data that 9 has been talked about in the morning session and 10 clarify some of those points. 11 In calendar years 2007 to 2010 I can 12 tell you that we are seeing definitely a notable 13 increase in violence. And that's going on 14 nationwide. And I think it is probably somewhat 15 related, if you look at data in past recessions 16 and increases in filings in those periods of 17 time, to the recession. 18 We noticed that in FY 2007 we had 19 38,897 adult protection ex parte orders filed. 20 That would be ex parte in full. Well, those ex 21 parte would then be recognized as full at the 22 end. So that's total filings just for 23 clarification. then by FY 2010, which is the 24 year that just completed in July, we had 43,921 25 adult protection orders. So you'll see that's</p>	<p style="text-align: right;">Page 137</p> <p>1 there between what actually happened and what's 2 on the record as having happened in terms of 3 NICS reporting. And I think somewhere in this 4 process we would need to address that issue in 5 some form. I don't have an answer for you, but 6 I do have a question there that needs to be 7 addressed at some point. 8 I also just want to thank you generally 9 for convening this. This is a critical issue, 10 something that I've been educated a lot through 11 -- by Ms. Coble herself and just through my 12 experiences in dealing with omnibus bills with 13 her over the years which is always fun, 14 particularly the second week in May. But it is 15 also something that's being recognized by the 16 National Center for State Courts. They are 17 convening a domestic violence summit in December 18 with all the court administrators throughout the 19 country from a grant from the Department of 20 Justice where they're asking to assemble teams 21 of court administrators, Department of Public 22 Safety representatives as a lead funding agency, 23 and also judges that are on the ground. And I 24 know Judge Burton spoke to you in St. 25 Louis. He'll be attending that conference with</p>

<p style="text-align: right;">Page 138</p> <p>1 me along with Andrea Spillars from Department of 2 Public Safety and Mark Peoples who is the fund 3 -- the grant administrator for the Department of 4 Public Safety. And so I look forward to the 5 opportunity to work with them on how we can 6 maximize our efforts in increasing funding for 7 domestic violence in Missouri and some best 8 practices on how we use that money. 9 You may be aware that the STOP grants 10 that Colleen referred to do have a 5-percent 11 set-aside for court projects related to STOP 12 grant activities. That would be something we 13 could use for training. In the past we haven't 14 always received that, but I think Public Safety 15 is willing to work with us to do that, but we 16 just kind of need a comprehensive plan. I think 17 it's important that we -- and Colleen has 18 described for you that she's achieved these 19 funding sources kind of like you would -- like a 20 stream of water would achieve; if there's an 21 obstacle, you go this direction and then you 22 come back, whichever way gets you down the 23 stream, which is what she's had to do over the 24 years as an advocate. 25 I think having an opportunity like this</p>	<p style="text-align: right;">Page 140</p> <p>1 things that relate to the judicial process that 2 are going to be relevant for them to use. So 3 that's one of our efforts currently right now. 4 Why is training so important? Well, I 5 think Ms. Vannier was talking about that; you 6 want to keep everything as evidence based as 7 possible. And how to deal with those dual 8 filing cases particularly is an issue the clerks 9 would speak to you about, and I expect will talk 10 to you more about in Kansas City. That refers 11 to the cases of the races to the courthouse and 12 how do judges handle that issue. What processes 13 and procedures are in place for judges to 14 identify true victims and be able to identify 15 that and manage their cases properly and just 16 encourage parties to do that the right way. 17 ATTORNEY GENERAL KOSTER: That is where 18 two parties are asking for -- 19 MR. LINHARES: Yes. You'll see that in 20 the civil marina much more. And you notice by 21 my statistics we're talking about the increased 22 violence in the civil area; ex parte orders. 23 The person who got there first may not 24 necessarily be the victim, and so that's an 25 ongoing issue that clerks continually deal with.</p>
<p style="text-align: right;">Page 139</p> <p>1 to convene groups can give us a more 2 comprehensive look at how to fund so that we're 3 not crossing paths and maximizing our fundings 4 as greatly as we possibly can. So I would 5 encourage you to look at that as well; to 6 continue the efforts of this in an ongoing 7 fashion. 8 One of the funding sources that we have 9 is Domestic Relations Resolution Fund which is a 10 \$1 surcharge in certain counties on domestic 11 violence -- on cases that is then funneled to 12 domestic casework. And one of the things that 13 we're looking at -- we've done training, but in 14 the courts we haven't necessarily sustained that 15 training or memorialized that training. So we 16 are creating a bench book for domestic violence 17 that is going to be published hopefully sometime 18 early next year. Hopefully by having that bench 19 book and continually updating that that will be 20 an on-line resource that every clerk in the 21 State could have at their fingertips, that every 22 judge in the State could have at their 23 fingertips. 24 Clerks have procedures in their 25 handbooks but sometimes judges don't have the</p>	<p style="text-align: right;">Page 141</p> <p>1 And sometimes that's referred to as frivolous 2 filings but also it does take -- statistics have 3 shown, the things that I've read, and Colleen 4 can correct me if I'm wrong, it takes on average 5 about eight ex parte filings before you get a 6 full order even in cases where abuse is 7 substantiated. So even if there's a case of 8 substantiated abuse it may take eight times for 9 that substantiated abuse, the party that really 10 was a victim, to actually get a full order, to 11 be willing to go through that process. 12 So clerks have to be continually 13 trained and reminded of that because they're 14 going to see this same person filing six, seven, 15 eight times in a row. They may not believe that 16 when they've seen them six, seven or eight 17 times. Oh, that person is filing again. But 18 there actually is a victim there. So I would 19 just ask for you to continue to include clerks 20 in that process and giving them greater tools to 21 differentiate between those types of cases; 22 between the stalking and the true domestic 23 violence. Again, I don't have an answer but I 24 know there's a question there. It's certainly 25 one that the clerks have brought to me very</p>

1 vociferously, and I wanted you to be aware of it
2 as well.

3 ATTORNEY GENERAL KOSTER: I don't
4 understand. I -- if there's training to
5 differentiate that is given to the clerks, the
6 clerk's position is not decision making. I
7 mean, they've got to move in one direction and
8 that's to keep the --

9 MR. LINHARES: That's right.

10 ATTORNEY GENERAL KOSTER: -- filings
11 moving to the judge as quickly as possible.

12 MR. LINHARES: I suppose it's probably
13 training that would be more for the judges.
14 You're correct. Yeah. You're definitely right
15 about that.

16 MS. COBLE: With the distinction being
17 that the stalking component of the order isn't
18 necessarily dependent upon family or household
19 relationship. So very often the clerks are
20 faced with situations outside the realm of the
21 training for the standard order of protection.

22 MR. LINHARES: That's probably more of
23 a law enforcement or judge training. Law
24 enforcement are often tasked with the
25 responsibility of assisting people on which way

1 to file; stalking or domestic violence, and the
2 judge is going to have to be dealing with that.
3 So clerks are in the middle on that.

4 ATTORNEY GENERAL KOSTER: Colleen, if
5 an abuser and a victim both go and seek orders
6 of protection against one another, let's say the
7 abuser gets there first. Aside from the just,
8 you know, inherent unfairness of that, are there
9 legal problems that that creates after the
10 orders are signed?

11 MS. COBLE: It can be difficult for law
12 enforcement to know how to enforce the orders,
13 and if judges' dockets don't allow them to bring
14 those cases up together it again becomes a
15 timing issue; who got the order first. It's a
16 process problem when you've got the two of them
17 going on. What if his was signed and then the
18 judge went into trial and isn't going to be
19 available to sign the ex parte of the second
20 petition? Then you've got -- there's a distinct
21 advantage in time, and one person has already
22 been told to leave the home.

23 MR. LINHARES: Yes. It creates
24 advantages for future --

25 ATTORNEY GENERAL KOSTER: So it depends

1 on who would leave the home?

2 MS. COBLE: It could be very complex,
3 very quickly.

4 ATTORNEY GENERAL KOSTER: Okay. I
5 didn't -- it didn't dawn on me that there -- it
6 depended -- it indicates who has got to pack
7 their bags.

8 MR. LINHARES: Sure. And it may help
9 with separation action in a different case. So
10 there's lots of implications.

11 Again, those are tough issues. I don't
12 know that I've got answers, but I know that that
13 -- with the increased violence we're seeing and
14 less clerks to work on those filings that there
15 is a pressure point there that's occurring.
16 That's definitely true.

17 I would also want to speak a little bit
18 about the importance of data, and now we have a
19 statewide case management system which has been
20 on-line in every county in the State since 2008.
21 It's called GIS, but most of the public would
22 know it as CaseNet because that's the public
23 interface that people see the data through. But
24 we've just now completed an interface from GIS
25 to MULES where both full and ex parte orders are

1 transmitted to MULES. And so continuing to
2 update that as MULES would update their system
3 or as we would update our system where we would
4 want to work with, for example, the prosecutors
5 in their interfaces to continue to focus on
6 that. Data interfaces are not direct services
7 and they don't -- they're not -- in many ways
8 they don't feel as important as the work that
9 your caseworkers are doing because you're not
10 dealing with a victim directly, but without that
11 information nobody can apply for the grants and
12 get the money to do the things they need to do.
13 So there is a need there for that, and my office
14 is certainly involved in making sure that those
15 efforts go forward.

16 Another issue I want to bring up that
17 I'm not sure -- it may have been brought up in
18 St. Louis, but I don't know if I've heard it
19 today. It's the whole issue of the Lautenberg
20 Amendment and the differentiation between
21 Missouri statutes vis-a-vis Lautenberg and most
22 states. I think Missouri -- and Colleen will
23 know this off the top of her head. How many
24 states are left?

25 MS. COBLE: Missouri, South Carolina

1 and Georgia were -- the domestic violence gun
2 law, federal.

3 MR. LINHARES: There's a federal
4 domestic violence gun law that prohibits -- I
5 checked into this this morning -- purchase or
6 transfer, which is the only things that the
7 federal government can involve itself in. They
8 can't necessarily deal with possession directly.
9 That's a state law enforcement issue. But
10 purchase or transfer of a weapon to anyone who
11 has been convicted of a misdemeanor crime of
12 domestic violence is prohibited under federal
13 law but is allowed under Missouri state law.

14 There's three states that still have
15 that on the books, and Missouri is one of them.
16 Obviously, that's a hot political issue, and
17 that's probably why it hasn't happened in
18 Missouri. But the implication, as far as the
19 efforts that we're talking about and data
20 sharing and all these kinds of things, and
21 grants, is that if the Feds were to come in
22 through the Department of Justice and
23 investigate Missouri's compliance with the
24 Lautenberg Amendment, there could be a
25 potentiality that federal funds would be at

1 risk. And that would be the tipping point where
2 Missouri would have to as a state address
3 whether or not they -- and I don't know how you
4 would handle this, again, but as an
5 administrator these are issues that I see.

6 Dealing with the issue of preserving
7 the funding for these areas or dealing with the
8 issue of restricting gun rights as it may be
9 perceived by many which is why it hasn't been
10 done at this point. So that's a pressure point
11 that's out there and something that I would
12 encourage this group to address as well. And
13 that interacts through MULES and through our
14 system to the NICS database and all that. It
15 goes along with that.

16 I would agree with a lot of what Dan
17 Knight was saying this morning about any efforts
18 we can engage in to provide less burden on the
19 victim, more support in courthouses for
20 assisting victims with knowing how to file. And
21 that's done a lot I know at the shelter level,
22 but some people who wouldn't go to a shelter may
23 go straight to the courthouse. And clerks --
24 this is another challenge for clerks because
25 they don't -- they're not attorneys, and they're

1 told not to tell people how to file. And that's
2 -- that's -- they're doing their job, but it's
3 not good -- necessarily doesn't seem like good
4 customer service for public service, but then
5 again, they're attorneys and that's the
6 attorney's job to assist people with how to
7 file.

8 The clerk is not in the position of an
9 advocate. They're in the position of
10 administering the case. So a lot of times
11 people will come to court in that position, and
12 obviously that's got to be a challenge for the
13 victim. You know, the victim is there and
14 they're scared. They don't know what to do.
15 Then they get there and the clerk can't help
16 them. So there's a justice gap issue there at
17 the courthouse as well. Some counties have
18 resources to address that. I know that St.
19 Louis County has an ombudsman-type position, and
20 Boone County may have something similar. I
21 don't know. But there are very few counties
22 that have the capability to address that issue
23 effectively. That's another thing that I've
24 noticed since doing this.

25 ATTORNEY GENERAL KOSTER: Greg, I'm not

1 as familiar as I should be on the clerk issue
2 with regard to providing assistance to those who
3 want to file.

4 MR. LINHARES: Yes.

5 ATTORNEY GENERAL KOSTER: Will you
6 flush that out? Is that -- that's not a
7 statute, is it? I mean, is that an internal
8 policy, and how aggressively is that policy
9 pursued? Is it local policy or is it state
10 policy?

11 MR. LINHARES: It's more of an issue
12 that has been raised in the past by attorneys.
13 Maybe if you're an attorney for a respondent you
14 may raise the issue that that clerk assisted the
15 victim with the filing and that may cause the
16 case to be compromised.

17 ATTORNEY GENERAL KOSTER: So is the
18 recommend -- is it a recommendation from state
19 court administrators to the clerks or how is
20 that policy --

21 MR. LINHARES: How has that been put
22 out?

23 ATTORNEY GENERAL KOSTER: Is it policy
24 and how is it transmitted, if it is?

25 MR. LINHARES: As with many things it

1 -- all law is local in a lot of ways. I
 2 wouldn't know that even if there was an OSCA
 3 policy on it that that would be the gospel. I
 4 think really this is an issue that is driven by
 5 presiding judges throughout the State and driven
 6 by a local practice. But traditionally the
 7 clerks being clerks and the judges being
 8 attorneys, the clerk will defer if there's an
 9 issue of how far they can go in assisting a
 10 client. They will bring that to a judge and say
 11 this person wants me to tell them should I file
 12 this as a stalking or should I file this as a --

13 ATTORNEY GENERAL KOSTER: Oh. I see.
 14 So it's more than a matter of how to fill out a
 15 --

16 MR. LINHARES: Oh, yeah. They want you
 17 -- they will -- I mean, somebody that comes in,
 18 they'll try to get as much help as they can as
 19 you would expect. And so --

20 ATTORNEY GENERAL KOSTER: It's when you
 21 get to a legal distinction.

22 MR. LINHARES: When you get to a legal
 23 distinction they view that as unauthorized
 24 practice of law, or it could be perceived that
 25 way and are often reticent to address that.

1 MS. COBLE: And then if I could, in the
 2 training with clerks it's -- we recommend that
 3 they realize that we're not asking them from the
 4 advocacy community to be advocates, but given
 5 the fact that half of Missouri counties don't
 6 have a program within their borders, there are
 7 clerks in these jurisdictions who aren't going
 8 to be able to follow the best practice of
 9 picking up the phone and having the advocate
 10 come to the courthouse to help.

11 MR. LINHARES: That's the best way to
 12 handle it.

13 MR. COBLE: That is the most effective
 14 way to do it, but in so many places the clerks
 15 are the -- they're the frontline staff.

16 MR. LINHARES: They really are.
 17 They're our frontline. There's no doubt.

18 MR. LAMB: Greg, certainly circuit
 19 clerks are elected officials.

20 MR. LINHARES: Yes.

21 MR. LAMB: Is there any type of
 22 mandatory domestic violence related training for
 23 circuit clerks as has been discussed on POST
 24 certification?

25 MR. LINHARES: There's no mandatory

1 domestic violence training, per se. There --
 2 there pretty much is in practice, though.

3 MR. LAMB: OSCA provides it. I
 4 understand that.

5 MR. LINHARES: We do that. And we
 6 continue to look for ways to make that lively.
 7 And Colleen has been a trainer for us many
 8 times.

9 MS. COBLE: It started in 1990 with the
 10 first official start of what they continue to
 11 incorporate as their yearly ongoing --

12 MR. LAMB: Head of the judicial
 13 college.

14 MR. LINHARES: This would be clerk
 15 college. Well, judicial college in the family
 16 law section. Family law judges will stay an
 17 extra day at judicial college. There's a
 18 specific section that I give to family law that
 19 day. And a lot of this is -- that type of
 20 training is done there. There's also something
 21 done at your initial judicial training when you
 22 come as a new judge. New judge orientation will
 23 have a piece in there about this, because
 24 typically new judges are going to get this line
 25 of work as you can imagine.

1 I've experienced that when I was in the
 2 military as well. I was a legal assistance
 3 attorney, and the new guy always got legal
 4 assistance. The cool guys got to go to criminal
 5 law. No offense Attorney General. But they
 6 want the cool guys -- everybody wants to do the
 7 criminal stuff. And attorneys love it, you
 8 know, but so -- and I understand, but this stuff
 9 is done typically by your newer associate
 10 circuit judge. So there's even a more enhanced
 11 need for training.

12 REPRESENTATIVE STILL: I have a
 13 question.

14 ATTORNEY GENERAL KOSTER: Go ahead.
 15 We're pretty -- we're not running like a
 16 committee hearing so you don't have to -- you
 17 just jump in.

18 REPRESENTATIVE STILL: You don't have
 19 to ask permission?

20 ATTORNEY GENERAL KOSTER: Exactly.

21 REPRESENTATIVE STILL: And it's a good
 22 thing because they'd never give me permission.

23 Did I understand you to say that there
 24 are certain federal recording requirements
 25 related to domestic violence?

<p style="text-align: right;">Page 154</p> <p>1 MR. LINHARES: Yes.</p> <p>2 REPRESENTATIVE STILL: That we don't</p> <p>3 do? Or that we do federally but not for state?</p> <p>4 MR. LINHARES: The State statute</p> <p>5 doesn't authorize your weapons to be taken in</p> <p>6 those circumstances in Missouri. Misdemeanor</p> <p>7 crime of domestic violence will not authorize</p> <p>8 you -- doesn't -- Missouri law does not</p> <p>9 authorize that weapon to be taken in that</p> <p>10 circumstance whereas at the federal level it</p> <p>11 does.</p> <p>12 REPRESENTATIVE STILL: Now, is that</p> <p>13 what you were talking about or is there</p> <p>14 something different called the Lautenberg</p> <p>15 Amendment?</p> <p>16 MR. LINHARES: That is the Lautenberg</p> <p>17 Amendment. The Lautenberg Amendment is that</p> <p>18 misdemeanor crimes of domestic violence will</p> <p>19 disqualify you from purchase or transfer of a</p> <p>20 weapon.</p> <p>21 REPRESENTATIVE STILL: Okay. And it</p> <p>22 would require a change of statute in Missouri?</p> <p>23 MR. LINHARES: Yes. In Missouri.</p> <p>24 REPRESENTATIVE STILL: That ain't going</p> <p>25 to happen.</p>	<p style="text-align: right;">Page 156</p> <p>1 REPRESENTATIVE STILL: Prior to your</p> <p>2 discussion on the Lautenberg Amendment you</p> <p>3 talked about there's some clarification when</p> <p>4 clerks are entering data. I guess I understood</p> <p>5 that to mean well, they have to report certain</p> <p>6 things to the Feds.</p> <p>7 MR. LINHARES: Well, yes. That's in</p> <p>8 regard -- that is in regard to the fact that the</p> <p>9 fact pattern -- the Feds want you to be as</p> <p>10 comprehensive with data as possible and</p> <p>11 understandably. But depending on how a case may</p> <p>12 be charged or what is entered into the record,</p> <p>13 it may not be certain whether or not the issue</p> <p>14 was a domestic one or not that would qualify as</p> <p>15 something that should be reported to the Feds.</p> <p>16 If it's an assault, let's -- for</p> <p>17 example, and, you know, there's people here</p> <p>18 better apt to talk about this than I am, but if</p> <p>19 it's charged as an assault but you don't have to</p> <p>20 prove up the domestic relationship then that may</p> <p>21 not be in the record. But if, in fact, it was</p> <p>22 domestic but it doesn't --</p> <p>23 MR. LAMB: Or a domestic that maybe was</p> <p>24 pled to a peace disturbance or an assault third.</p> <p>25 REPRESENTATIVE STILL: But it seems to</p>
<p style="text-align: right;">Page 155</p> <p>1 MR. LINHARES: No. That's why I said</p> <p>2 it wouldn't happen until the Feds investigate us</p> <p>3 and then people have to decide do we want to do</p> <p>4 the bill or the money.</p> <p>5 REPRESENTATIVE STILL: I hope you're</p> <p>6 right. I mean, I certainly would be supportive</p> <p>7 of that.</p> <p>8 MR. LINHARES: I think it would only</p> <p>9 happen if people were able to say my hands are</p> <p>10 tied. They're coming for us, and we're going to</p> <p>11 lose a bunch of money if we don't do it.</p> <p>12 REPRESENTATIVE STILL: How much money</p> <p>13 would be at risk?</p> <p>14 MR. LINHARES: Billions.</p> <p>15 Multi-millions. No, not billions. I'm sorry.</p> <p>16 Multi-millions certainly.</p> <p>17 MS. COBLE: Department of Justice</p> <p>18 dollars.</p> <p>19 MR. LINHARES: Department of Justice</p> <p>20 dollars. Basically, anything that comes into</p> <p>21 Public Safety from the Feds, anything that comes</p> <p>22 to the courts from the Feds, anything that comes</p> <p>23 to Mr. Lamb from the Feds, or the Attorney</p> <p>24 General's office, all of those funds would be at</p> <p>25 risk.</p>	<p style="text-align: right;">Page 157</p> <p>1 me like if you're having to report it anyway to</p> <p>2 the Feds -- am I missing something here?</p> <p>3 MR. LINHARES: Well, we only report</p> <p>4 what the disposition is. So maybe the fact</p> <p>5 pattern says yes but disposition doesn't show</p> <p>6 it. So we're not -- so in other words, the data</p> <p>7 that the Feds would then get and that we would</p> <p>8 use to apply for grants and what have you, or</p> <p>9 for a case reporting statistics, would not show</p> <p>10 enough domestic cases when, in fact, there's</p> <p>11 more than we're actually showing.</p> <p>12 REPRESENTATIVE STILL: Thank you.</p> <p>13 MR. LINHARES: I just wanted to briefly</p> <p>14 touch on a couple other issues that the clerks</p> <p>15 have raised as well. This one was brought up</p> <p>16 earlier regarding bad addresses for respondents</p> <p>17 and how to find people. Again, Jason and I are</p> <p>18 working on a project for criminal and justice</p> <p>19 information sharing, and I think this keeps</p> <p>20 cropping up everywhere I look. Having a</p> <p>21 comprehensive plan throughout the State as to</p> <p>22 who's got the right data and who this individual</p> <p>23 is; uniform state identification, if you will,</p> <p>24 in some shape -- way, shape or form is going to</p> <p>25 need to be done.</p>

1 Otherwise, you know, when you've got
2 that respondent and you can't serve that
3 respondent, that becomes an issue. And so we
4 need to make sure we have the right address for
5 those respondents when cases are coming to the
6 courts because that's a frustration for the
7 clerks. It keeps filing -- keeps coming back
8 and the clerk keeps having to deal with it.
9 That's an issue.

10 I discussed the issue -- most of the
11 other issues I think I've already talked about.
12 The other issue that I would bring up is
13 privacy; the ongoing needs for privacy. Last
14 year we passed a piece of legislation to keep
15 some more of the personal information in the
16 confidential case sheet and not in the public
17 record regarding personal information; bank
18 information, Social Security numbers and
19 information in that form.

20 I don't know if there's any other
21 places like that that we haven't found yet, but
22 if there are we need to continue to keep the
23 focus on privacy, particularly in regard to the
24 victim and where the victim is, and continue to
25 train and make sure that our laws are in place

1 that keep the identification of the victim and
2 where that victim is located secret if it needs
3 to be. And also we want to encourage to
4 continue not just funding court efforts but, you
5 know, probation officers, increase probation
6 officer funding for keeping track of domestic
7 violence offenders. That's critical. All of
8 those things will help judges and clerks do
9 their job too. So it's a comprehensive effort.

10 I'd be happy to answer any other
11 questions you have.

12 ATTORNEY GENERAL KOSTER: Very good.
13 We're right on time. We've been asking
14 questions as we've been going along. Does
15 anybody have anything final?

16 MS. COBLE: Just to -- I know that
17 there have been some changes that the court
18 administrators around the country are having to
19 report differently to NICS, the different
20 federal systems. Aren't there some new
21 requirements of state court administrators?

22 MR. LINHARES: Yes. In terms of the --
23 yes. Now, this is regarding the piece of
24 legislation that we tried to pass two years ago.
25 That has to do -- and I'm trying to -- I'm

1 quickly trying to search my memory to remember
2 what it is. It had -- it's a very backwards
3 seeming kind of thing. I'm trying to remember
4 it. I'm sure as soon as I sit down I'll
5 remember exactly what it is. But in order to
6 qualify for federal funding for data sharing to
7 NICS, I think it has to do with some kind of
8 adjudication of incapacity. And I'm thinking
9 about it, and I think I've got it now.

10 If a person is judged incapacitated and
11 their weapons are removed from them due to that
12 adjudication, being incapacitated, there has to
13 be a process whereby someone can restore their
14 rights; restoration of rights piece. And I
15 think that was passed at the federal level.
16 Joan and I drafted this up in the mezzanine of
17 the Senate, the floor of the -- we won't talk
18 about that, though. No.

19 But we've -- this was a piece that I --
20 well, Mr. Bellamy from the Attorney General's
21 office was involved. I'm being a little -- it
22 wasn't quite that bad. It's been -- we've
23 talked with the NRA about this, with members of
24 the Attorney General's office, clerks have been
25 involved. Basically -- and NICS has kind of put

1 out some greater guidance on this in the last
2 year or two. They want you to have a process to
3 restore rights to persons that were previously
4 judged mentally incompetent; to appeal to the
5 Court to restore their rights to possess
6 firearms. And if you don't have that in place
7 then you may be subject to losing additional
8 federal funding or not being able to draw down
9 federal funding to increase your capacity to
10 report data to the NICS system. That's it in a
11 nutshell.

12 MS. COBLE: Well, and there was some
13 concern that they were going to broaden some of
14 those to address the domestic violence guns
15 issue was the thread I was going down.

16 MR. LINHARES: Yes. There was --
17 people want to say well, then let's get rid of
18 -- you know, it's not let -- what do you want to
19 do with felonies now or -- there was some
20 concern that that could be a vehicle through
21 which other things might be driven, yes. And it
22 seems counterintuitive but there already is in
23 place a way to take away those weapons through
24 that judgement of incapacity. So I think this
25 was passed at the behest of some gun rights

1 advocates at the federal level and put in well,
2 we want that restoration of rights in order to
3 get this -- all this information on people that
4 own guns.

5 ATTORNEY GENERAL KOSTER: Greg, thank
6 you very much. I appreciate the work you're
7 doing and your testimony here today. It's very
8 helpful.

9 Judge Debbie Daniels former alumni of
10 the Attorney General's office is next up. Come
11 on up, Judge.

12 Judge Daniels is Associate Circuit
13 Judge here in Boone County and handles the
14 domestic violence docket here in the County.

15 JUDGE DANIELS: On the criminal side.

16 ATTORNEY GENERAL KOSTER: On the
17 criminal side, and is here to give us a judicial
18 perspective on criminal domestic violence cases.

19 Welcome. It's good to see you.

20 TESTIMONY

21 BY JUDGE DANIELS:

22 Thank you. And it may be the first
23 time this year that I was identified as being
24 one of the cool people. So I'm glad that I'm
25 here on the criminal side.

1 Recognizing that we do not have yet an
2 integrated court with regard to the civil side
3 on orders of protection, and the criminal side
4 with regard to someone who is facing criminal
5 penalties for domestic violence. I am here to
6 speak to you about the criminal docket and some
7 of the things that we have done in Boone County
8 without the advantage of legislation or a lot
9 of money to the court system to help address
10 what we perceive to be a very important issue
11 for public safety in Boone County.

12 I was very pleased to have the
13 opportunity to speak to you all today. I am
14 sorry that my docket in probate took -- it was
15 already set and so there were just too many
16 cases to move, but I'm hoping that someone will
17 share with me the great ideas that have come out
18 of this process. So thank you for having it.

19 When I became an associate circuit
20 judge one of the things that occurred to me was
21 that we had many resources trying to reach the
22 problem of domestic violence in Boone County,
23 and while our numbers are not great I will tell
24 you the prosecutor's office informs the court
25 system that there are 1300 cases a year, roughly

1 1300 cases a year, that either are filed as
2 domestic violence cases in the criminal side or
3 have a component of domestic violence associated
4 with it. So you would see cases that are filed
5 as a burglary to really grow out of a domestic
6 violence situation.

7 And we are very blessed in Boone County
8 that we have what is called a DOVE unit, and I
9 understand that Dan Knight may have spoken to
10 you about the DOVE unit. We are blessed with
11 people who are actively pursuing in a
12 not-for-profit capability, trying to address
13 domestic violence. But it was hard to get those
14 people together.

15 Boone County is a First Class County.

16 We have on any given day perhaps five or six
17 courtrooms going where if you are a victim of
18 domestic violence or a prosecutor or a defense
19 attorney assigned to a domestic violence case
20 that you need to be and you need to resolve
21 that.

22 What we did in 2008 in Boone County is
23 all of those cases come to one judge. We have
24 worked with the prosecutor's office to get the
25 assistant prosecuting attorney handling the case

1 to be in the courtroom at the same time. We
2 have worked with the public defender's office to
3 get the attorney assigned the case in the
4 courtroom at the same time which gives us
5 incredible ability to create what is a very busy
6 circuit. Some of the small town aspects that
7 are positive towards addressing public safety
8 concerns.

9 The victim doesn't come in on a law day
10 in Boone County confronted with trying to see
11 where their case is in 11 different divisions.
12 The victim advocates aren't running between many
13 courtrooms trying to decide what's going on, and
14 more importantly there are limited resources on
15 both the criminal defense side and on the State
16 side. And what I find over and over again
17 sitting on the bench is I will say -- someone
18 will come up and they'll say, Judge, we need to
19 continue this case for negotiation, and I will
20 say how long do you need. And the answer I get
21 back is we've been trying to talk to each other
22 but we can't reach each other. Well, if you can
23 get the attorneys there in the course of a
24 docket where you have about 60 cases set, they
25 have time to talk. They can get cases resolved.

1 And so without ever wanting to
2 represent to this panel that someone gave me a
3 magic wand when I got the privilege of wearing a
4 black robe, because I didn't get one of those,
5 what I can say to you is efficiency and moving
6 the docket makes a big difference. It makes a
7 big difference for the victim. It makes a big
8 difference for the public safety concerns of
9 what's being addressed.

10 If cases are not moved I do not believe
11 we do the service that we should be doing to the
12 community in which we live. So while typically
13 the judge is always the umpire and not a player,
14 I am here to say to you that one of the things I
15 would encourage is a concerted effort to move
16 domestic violence cases quicker. We do that in
17 Boone County by having a return date on bonds
18 that is much quicker than a normal return date
19 on a bond.

20 If you get charged with stealing, get
21 taken into custody, and we have pre-set bonds in
22 Boone County, and you post a surety bond to
23 allow yourself to exit from the Boone County
24 jail, your return date into court on that surety
25 bond is probably going to be three weeks to four

1 weeks before you ever see the judge. For
2 domestic violence cases that return date is 10
3 days. It makes a huge difference. So everyone
4 is seeing the judge quicker.

5 If they do not bond out, they come to
6 my docket, and I have a criminal docket every
7 day except Thursday, and usually I'm in court on
8 something criminal on Thursdays too. They come
9 to my court and I get the process moving.

10 ATTORNEY GENERAL KOSTER: So the
11 domestic violence docket can crop up on any of
12 the four law days that you operate?

13 JUDGE DANIELS: Yes. Mornings or
14 afternoon.

15 ATTORNEY GENERAL KOSTER: So there's
16 not a set domestic violence docket that starts
17 Monday morning at 9 a.m.?

18 JUDGE DANIELS: There is. There is a
19 set domestic violence docket that in addition to
20 that if you are charged with a new domestic
21 violence offense, you're supposed to be coming
22 in to see me as quickly as possible if you're in
23 custody. Within 10 days if you're posting a
24 bond at the sheriff's office.

25 ATTORNEY GENERAL KOSTER: So all the

1 return dates are for that single domestic
2 violence -- the formal domestic violence
3 calendar, right?

4 JUDGE DANIELS: Right. Well, or any
5 criminal docket that -- the return date being
6 the first appearance. The defendant's first
7 appearance is before me on one of those criminal
8 dockets that I'm running Monday through Friday.

9 ATTORNEY GENERAL KOSTER: Okay.

10 JUDGE DANIELS: Once they appear before
11 me on the first time then I set that case on a
12 Tuesday or a Wednesday where I have court people
13 in the courtroom to help.

14 ATTORNEY GENERAL KOSTER: I see.

15 JUDGE DANIELS: And I think the -- I
16 think the expedited return date is an important
17 component to being fair and doing the job that
18 I'm charged with doing. If it is a domestic
19 violence case that the State is going to be able
20 to go forward with, that needs to happen sooner
21 rather than later. If it is a case that the
22 State is not going to make, that decision needs
23 to be made sooner rather than later because of
24 the ramifications to the people who are
25 confronted with bond conditions.

1 In Boone County we have as part of the
2 process of setting bond that if you are charged
3 -- if you arrested on domestic assault there is
4 a no-contact provision with the person
5 identified as the victim in the arrest
6 statements. That gets reinforced when that
7 person comes into court. So I think that's a
8 very positive thing that occurs.

9 The remedy in the system today --
10 understanding that there is a legislative push
11 to do something about it. The remedy today is
12 for the State to request that the bond be held
13 insecure under Rule 33.

14 ATTORNEY GENERAL KOSTER: Can I raise a
15 couple of points that came up during the morning
16 hours that have kind of intertwined with a
17 couple of things you just said? The first is
18 the question as to whether or not, I assume, a
19 misdemeanor penalty, a formal misdemeanor, would
20 apply to a violation of the no-contact provision
21 in a domestic violence bond.

22 JUDGE DANIELS: A new charge?

23 ATTORNEY GENERAL KOSTER: A new charge
24 rather than having the only enforcement tool be
25 judicial contempt, that actually a misdemeanor

<p style="text-align: right;">Page 170</p> <p>1 apply under the -- and the thinking is that if 2 there's a no-contact provision in the bond and a 3 deputy sheriff knows that violation of that 4 no-contact position -- of that no-contact 5 provision is itself a separate crime, that a 6 deputy sheriff will be more likely to go enforce 7 that as a state violation rather than as a 8 potential contempt situation. 9 JUDGE DANIELS: I would say to you that 10 we are not seeing criminal contempt yet. What I 11 see frequently is that I set a bond on a 12 criminal charge involving domestic violence 13 situations and include in the setting of that 14 bond a no-contact provision. I believe under 15 Rule 33 of the Missouri Rules of Court I have 16 discretion with regard to what bond and what 17 bond conditions I establish with regard to 18 releasing someone from jail. If someone is in 19 violation of what I have set as the bond 20 condition, I do not believe that I need to 21 arraign them. I do not believe I need to 22 establish even an opportunity for them to be 23 heard if I think there is a sufficient risk 24 associated with violation of a condition of bond 25 that I have set.</p>	<p style="text-align: right;">Page 172</p> <p>1 to cut you off. 2 MR. LAMB: Oh, no. I'm sorry. I 3 interrupted you. I would agree that you, sua 4 sponte, would have the ability to enforce your 5 own bond. And nothing about a proposal to 6 criminalize a violation of the judge's bonding 7 condition would take that power away, would it? 8 JUDGE DANIELS: No. And I just -- in 9 whatever legislation, which I would not be 10 qualified to speak to that would come through 11 the different branches of government, I wouldn't 12 want it to get lost in that discussion. The 13 authority that is vested in the Court and the 14 ability of the Court to address immediately 15 safety concerns based upon a bond that, of 16 course, was set. 17 ATTORNEY GENERAL KOSTER: And some of 18 this may differ between the cultures of 19 different circuits. I guess anecdotally you 20 feel that your no-contact provisions in your 21 bonds are being enforced in this circuit? 22 Coming out of the 17th I don't know whether law 23 enforcement thinks about enforcing the provision 24 in a bond with the same intensity that they, you 25 know, pick up on state law violations.</p>
<p style="text-align: right;">Page 171</p> <p>1 Under Rule 33 then what I do if the 2 State makes me aware, I'm not suggesting that I 3 ask -- act as law enforcement. But if the 4 prosecuting attorney's office makes me aware 5 that there has been a violation of a condition 6 of bond that I have set, I set that immediately 7 for hearing. Or if the person is in my 8 courtroom and I believe that there's been a 9 violation, I will hold the original bond 10 insecure and move to enforce that. Which if 11 there is no bond established and a warrant has 12 been issued, that person is taken into custody. 13 ATTORNEY GENERAL KOSTER: Say that last 14 part again. If there is -- 15 JUDGE DANIELS: If there is no bond 16 that has been filed to allow the person to be 17 released on the warrant then that person can be 18 immediately taken into custody. If the person 19 is charged with the new offense, I would think 20 that would have to be a bondable case. 21 MR. LAMB: Judge, what would prohibit 22 both from occurring simultaneously, though? You 23 would still have the -- 24 JUDGE DANIELS: There wouldn't be 25 anything that would -- I'm sorry. I didn't mean</p>	<p style="text-align: right;">Page 173</p> <p>1 JUDGE DANIELS: And I, again, could not 2 speak to law enforcement in Boone County. I 3 will tell you I take it seriously. 4 ATTORNEY GENERAL KOSTER: Do you feel 5 like word is getting back to you when there's 6 been a -- 7 JUDGE DANIELS: Yes. And I don't think 8 that always means that the person gets taken 9 into custody directly to the Boone County Jail. 10 I have people that have no criminal history who 11 are in their 40s and they are charged with 12 domestic violence. If I can separate that 13 person from the person that is subject, 14 sometimes that person can go through and resolve 15 the criminal case without it being a further 16 problem. Or sometimes I find situations 17 anecdotally where the people get along fine 18 until a person is either using a controlled 19 substance or alcohol to excess, and that leads 20 to a situation. 21 I have tools so if that person comes in 22 to see me on a regular court date and the 23 prosecutor says, Judge, we're moving to hold the 24 bond insecure because law enforcement is telling 25 us that there has been contact, I will sometimes</p>

1 ask the person to take a seat based upon what
2 the circumstances are and hook them up to
3 electronic monitoring so I know if they're
4 getting close to a zone from which they're
5 prohibited, hook them up to electronic
6 monitoring to continuously evaluate alcohol
7 levels or hold the bond insecure, require them
8 to go back to the Boone County Jail and post a
9 new bond.

10 ATTORNEY GENERAL KOSTER: Second topic.
11 What is your sense -- what is your thought on
12 pros or cons of a 12-hour hold on a domestic
13 violence arrest? And again, I've always been a
14 little dubious about the constitutionality of
15 these. Some of them are informal around the
16 State.

17 JUDGE DANIELS: I would say that the
18 Attorney General's Office has great resources
19 with regard to the unit that was charged with
20 defending writs of habeas corpus, and perhaps
21 that unit that addresses responses to filings of
22 writs of habeas corpus would be involved there.

23 ATTORNEY GENERAL KOSTER: Thank you.
24 Well and subtly stated. I'm sure the redness of
25 my face betrays how severely I was just slapped.

1 JUDGE DANIELS: No. No.

2 MS. COBLE: In a non-violent, loving
3 sort of way.

4 JUDGE DANIELS: That's not to say that
5 if a judge is truly looking at Rule 33 with
6 regard to potential danger to the identified
7 victim, the community, that you cannot as the
8 Court in your judicial capacity address what
9 would be a problem. And understanding that I'm
10 supposed to be here to discuss criminal
11 responses I would say to you that I routinely
12 get calls in the middle of the night to issue an
13 ex parte order of protection, and when I say
14 where is the person, they say in the Boone
15 County Jail. The person I believe who needs to
16 be calling me is the prosecutor's office to say,
17 Judge, this is an extenuating circumstance under
18 Rule 33 which is the rule of the Missouri
19 Supreme Court that gives me the authority to set
20 a bond. We believe this typical offense that
21 has been charged as a misdemeanor or a typical
22 offense where someone has been arrested on a
23 misdemeanor needs to carry a much higher bond.

24 ATTORNEY GENERAL KOSTER: And then the
25 third question --

1 JUDGE DANIELS: And I would do that.

2 ATTORNEY GENERAL KOSTER: The third
3 question is the pros and cons of a mandatory
4 check-in. Maybe not a mandatory return on a
5 bond but a mandatory check-in after 20 -- after
6 36 hours, 48 hours, 72 hours after the initial
7 bond is placed on the defendant with the
8 sheriff's office probably to address the issue
9 of the difficulty in serving that individual
10 with a protective order -- obtaining service on
11 a protective order.

12 JUDGE DANIELS: I can only speak to my
13 -- the way I run my domestic violence court, and
14 I say -- I'm always very hesitant to use a
15 singular pronoun here because anything involving
16 the criminal justice system requires input from
17 many, many people, but I'm typically the person
18 who is setting the return date. I will tell you
19 that if they do not have an attorney at the time
20 they make the first appearance, I'm typically
21 setting counsel status hearings within three to
22 four days. Anybody who wants to find that
23 person can find that person in my courtroom in
24 three to four days. Sometimes I'm setting them
25 within 24 hours.

1 Typically in Boone County a court trial
2 after that first appearance and an entry of a
3 plea of not guilty under the Missouri Supreme
4 Court rules is set within five to six weeks.
5 I'm setting them within three weeks. I'm
6 setting preliminary hearings within three weeks.
7 Do I get every single preliminary hearing heard
8 within three weeks? No. And there probably
9 would have been 25 people running against me for
10 office if I had really tried to force all of the
11 attorneys to do preliminary hearings within
12 three weeks in my division, but certainly
13 they're checking in.

14 ATTORNEY GENERAL KOSTER: So if the
15 bond is issued on a Friday night, the officer
16 will know to write that first arraignment --

17 JUDGE DANIELS: Within 10 days if
18 they're posting bond. If they're in custody,
19 they're coming to me immediately. We
20 differentiate between the in-custody people and
21 the out-of-custody people.

22 MR. LAMB: Judge, may I ask? Your
23 domestic violence docket, that idea where it
24 spans statewide. Do you think the best vehicle
25 to accomplish that would be through legislation

<p style="text-align: right;">Page 178</p> <p>1 or through Supreme Court rule?</p> <p>2 JUDGE DANIELS: I'm a big believer in</p> <p>3 following rules, and so whether it's by statute</p> <p>4 or whether it's by rule, I think that the</p> <p>5 experience in Boone County could be incorporated</p> <p>6 in other counties and lead to very positive</p> <p>7 results in other counties. Because it's not a</p> <p>8 plan that requires people to administer it so</p> <p>9 much as rethinking the system to allow the</p> <p>10 people who are already players in the system to</p> <p>11 get together and talk to get resolution.</p> <p>12 I was visiting with Page Bellamy</p> <p>13 because he had made an effort to try to get a</p> <p>14 domestic violence docket court where he was, and</p> <p>15 I said to him, sometimes I've very envious of</p> <p>16 the drug court statutes because it recognizes</p> <p>17 the problem of drug courts, and it statutorily</p> <p>18 says this is a good way to address this. And so</p> <p>19 to the extent that you have a statutory</p> <p>20 recognition of the importance of an efficient</p> <p>21 and consolidated effort to address domestic</p> <p>22 violence and you create in the court system,</p> <p>23 incorporated with the Supreme Court rule, an</p> <p>24 ability of why this is a very important thing, I</p> <p>25 think it gives those of us who are out here in</p>	<p style="text-align: right;">Page 180</p> <p>1 change? I mean, as a practical matter.</p> <p>2 JUDGE DANIELS: Certainly, the time</p> <p>3 standards are suggestions from the Missouri</p> <p>4 Supreme Court about what the policy should be.</p> <p>5 And Mr. Linhares is probably in a better</p> <p>6 position to -- I'm just speaking ideally from a</p> <p>7 person on the ground floor, so to speak, what</p> <p>8 would be helpful. But to the extent that the</p> <p>9 Missouri Supreme Court crafted out an exception</p> <p>10 for domestic violence cases and said that all</p> <p>11 domestic violence cases should be resolved in</p> <p>12 three months -- I'm going to contested</p> <p>13 preliminary hearings on some cases in six weeks</p> <p>14 on domestic violence.</p> <p>15 ATTORNEY GENERAL KOSTER: And how --</p> <p>16 because I have never been a judge I don't know</p> <p>17 how idealistically I should take that last</p> <p>18 statement. Is that -- are you putting that</p> <p>19 forward as something that the Supreme Court</p> <p>20 would seriously consider and that that is a</p> <p>21 practical possibility or is that farther out</p> <p>22 along the idealistic continuum?</p> <p>23 JUDGE DANIELS: I'm saying if the</p> <p>24 Missouri Supreme Court, understanding that we</p> <p>25 have a public defender crises, we have a crises</p>
<p style="text-align: right;">Page 179</p> <p>1 the system trying to work through that some</p> <p>2 parameters that would be very helpful.</p> <p>3 ATTORNEY GENERAL KOSTER: What do you</p> <p>4 think is the mechanism for -- in a circuit that</p> <p>5 doesn't prioritize domestic violence the same</p> <p>6 way that this circuit does, an arraignment -- a</p> <p>7 post bond arraignment for someone who has bonded</p> <p>8 out would normally be something along the lines</p> <p>9 of 30 days?</p> <p>10 JUDGE DANIELS: I think sometimes it's</p> <p>11 much longer.</p> <p>12 ATTORNEY GENERAL KOSTER: And so what</p> <p>13 is the mechanism? Do you go to the Supreme</p> <p>14 Court -- what is the mechanism -- I'm also</p> <p>15 looking at Greg to see if he is -- what is the</p> <p>16 mechanism for getting that accomplished?</p> <p>17 JUDGE DANIELS: You change the Missouri</p> <p>18 Supreme Court operating rule on time standards.</p> <p>19 ATTORNEY GENERAL KOSTER: And there is</p> <p>20 no differentiation between domestic violence and</p> <p>21 other crimes now?</p> <p>22 JUDGE DANIELS: Right now there's not.</p> <p>23 ATTORNEY GENERAL KOSTER: And what</p> <p>24 would the culture of the system that you work in</p> <p>25 tolerate in terms of enforcing that type of</p>	<p style="text-align: right;">Page 181</p> <p>1 perhaps for the prosecuting attorneys with the</p> <p>2 number of people that they have available. The</p> <p>3 courts think they have a crises with the number</p> <p>4 of cases that they're moving. I'm just saying</p> <p>5 that Boone County is not St. Louis County or</p> <p>6 Independence or Jackson County, but we move a</p> <p>7 fair number of cases in Boone County. And I</p> <p>8 believe that you could ideally set three to four</p> <p>9 months as a very realistic goal as the</p> <p>10 suggestion by the Missouri Supreme Court to have</p> <p>11 cases disposed.</p> <p>12 MR. LAMB: Are you talking on the</p> <p>13 associate level or the circuit level?</p> <p>14 JUDGE DANIELS: I'm saying that on the</p> <p>15 associate level if you took care of that, you</p> <p>16 would take care of the lion's share of the cases</p> <p>17 that move to the circuit division.</p> <p>18 ATTORNEY GENERAL KOSTER: Greg, how --</p> <p>19 if that type of recommendation made it into the</p> <p>20 report how would OSCA take something like that?</p> <p>21 MR. LINHARES: OSCA would refer that to</p> <p>22 the appropriate supreme court committee to study</p> <p>23 that and whether or not that would be</p> <p>24 recommended up to the Supreme Court. The</p> <p>25 Supreme Court may want to give that a look to</p>

1 the Civil Rules Committee -- or I'm sorry,
2 Criminal Rules Committee, and the Family Law
3 Committee maybe have some comments.

4 So it would probably be incumbent on --
5 and Judge Daniels, I think, is on a committee
6 with regards to that so she could make this
7 happen more than me. So again, it's not OSCA's
8 -- we would staff that but it would probably be
9 a recommendation of the Criminal Rules Committee
10 as to whether or not that would be something
11 they would want to recommend at the Supreme
12 Court and take it from there.

13 ATTORNEY GENERAL KOSTER: We'll go back
14 on track. We've digressed with all these
15 questions, but continue on.

16 JUDGE DANIELS: I think that's an
17 important component of -- I think if the entire
18 system works together we get more fair
19 resolution of the charge that all of us have to
20 operate the system to deliver justice both to
21 the victims and to the people who are involved
22 in it. And I think there are many tools that
23 are out there that if you pay attention to, you
24 can get some very -- no magic wand but some
25 exciting things happen to make a big difference.

1 ATTORNEY GENERAL KOSTER: Did you have
2 a question, Mary?

3 REPRESENTATIVE STILL: No.

4 ATTORNEY GENERAL KOSTER: Do you have
5 other circuits around the State that you would
6 sort of direct our attention to, other circuits
7 aside from this one that you really feel are
8 moving well?

9 JUDGE DANIELS: All of the circuits are
10 moving well. If we're being recorded I am here
11 to tell you that all Missouri circuits are in
12 great shape.

13 I think St. Louis County has tried to
14 get a unified docket with regard to what is
15 going on on the civil side with orders of
16 protection, and Judge Burton and I have been in
17 communication about how we can, as part of the
18 educational process in the college, put in
19 something that shares what our experience has
20 been to date.

21 I think in Buchanan County they're
22 trying to move forward with some sort of docket
23 or court with regard to what the prosecutor's
24 office is doing up there with regards to what is
25 going on.

1 ATTORNEY GENERAL KOSTER: Does the term
2 unified docket mean the civil side plus the
3 criminal side in front of the same judge? What
4 does -- when you use the term unified docket,
5 what do you mean?

6 JUDGE DANIELS: So far from my
7 perspective the only place that unified has
8 meaning right now is there are courts who are
9 doing unified docket, meaning one judge, one set
10 of rules for the civil side. And if it's not
11 one judge there is a concerted judicial approach
12 to help those cases get resolved. So you have
13 that on the civil side and you have that on the
14 criminal side. There's some thought that we
15 should try to blend that concept of a unified
16 approach by however many judges you need to
17 handle the volume of cases and combine civil
18 with criminal. I'm not so sure about that
19 because the rules are so different, but we could
20 certainly increase communication between what
21 we're doing on the civil side and what we're
22 going on the criminal side.

23 My example about them calling from the
24 jail to have me set an emergency ex parte,
25 that's fine. It should be one of the tools in

1 the toolbox, but some of them were calling me
2 about adjusting the bond -- pre-set bond on a
3 misdemeanor in Boone County is \$1,000. Unless
4 the judge moves then to increase that bond with
5 the information provided by the prosecutor, it's
6 going to cost \$100 to get out of jail.

7 ATTORNEY GENERAL KOSTER: You don't
8 have the civil side docket?

9 JUDGE DANIELS: No. I have just the
10 criminal side.

11 ATTORNEY GENERAL KOSTER: What are the
12 benefits -- or why haven't you gone to that kind
13 of a setup in your court? Why -- are you -- is
14 it a decision that has been made not to bring
15 the two dockets together or is it just something
16 that -- what are your thoughts on it?

17 JUDGE DANIELS: I think change is
18 always hard. I think we're still working
19 through the change of trying to get the criminal
20 docket in a unified format. I will tell you
21 that without appropriate communication criminal
22 defense attorneys may not be real enthusiastic
23 about this. Before I ever did this in Boone
24 County I talked to the criminal defense
25 attorneys. I talked to the public defenders. I

1 talked to Ms. Coble. I talked to the
2 prosecuting attorney's office. I talked to
3 probation and parole. I talked to the family
4 counseling center who is the center here in
5 Boone County who is responsible for trying to
6 look at providing batterer's intervention or
7 cognitive behavior therapy.

8 I had to get approval from the court en
9 banc because I set many, many -- in my division
10 where the probation officer is not recommending
11 that the probation be revoked. I'm simply
12 asking him to come in and visit with me which
13 increases Ms. Blakemore's job considerably, but
14 I think it's an important component from where I
15 read the literature.

16 I think the social science literature
17 on this is pretty clear that if you select
18 appropriately those people for cognitive
19 behavior therapy and close monitoring your
20 chances of reducing recidivism are the greatest.

21 ATTORNEY GENERAL KOSTER: I'm still at
22 a loss. I don't understand the systematic
23 benefits to having the civil decisions made by
24 one judge and the criminal decisions made by
25 another judge particularly in a larger circuit

1 like Jackson where the --

2 JUDGE DANIELS: It's the numbers. It's
3 the numbers of cases that you would have to have
4 one judge process.

5 ATTORNEY GENERAL KOSTER: Isn't it the
6 same number of judges? You just split the
7 distribution? I mean, if there are 100 cases --
8 let's say theoretically you've got 100 criminal
9 cases and 100 civil cases and you give that to
10 two judges, each one has still got 100. If you
11 split them 50/50 each judge still has 100.
12 You're still going to need the same number of
13 judges but at least there would be coordination
14 in how the civil matter is being decided and how
15 the criminal matter is being decided. I'm not
16 educated on this topic. I don't understand the
17 system benefits with the exception that a
18 defense attorney might think, oh, it's better if
19 I can, you know, play one off against another
20 and they don't all know what I know.

21 I don't understand the system benefits
22 of splitting the decisions with regard to a
23 single subject being a defendant on two sides of
24 the civil/criminal divide.

25 JUDGE DANIELS: Let me answer criminal

1 side first. In Boone County we have 11 judges.
2 We have four associates and one commission.
3 Before 2008 what would happen is the domestic
4 violence dockets would be spread amongst those
5 four judges. When they all started coming to my
6 division, unless we were going to keep the
7 courthouse open until eight o'clock at night,
8 there had to be something that gave a little bit
9 in order for me to have all 1300 of those cases.

10 In addition to a criminal docket I do a
11 probate docket, and I do a probate docket for a
12 First Class County involving involuntary mental
13 health commitments, decedent's estates,
14 guardianships and conservators, trust
15 litigation, and I get to see people from the
16 Attorney General's Office on sexually violent
17 predator trials.

18 If I were to pick up -- and I'm not
19 even sure what the numbers are on orders of
20 protection. 4,000, 5,000? How many orders of
21 protection --

22 MS. REDDIN: It's usually 20 to 30 a
23 docket approximately.

24 JUDGE DANIELS: Okay. So if I pick up
25 those dockets also, assuming that I would find a

1 judge who would be happy to move that off of my
2 docket, where would I find that in my day to add
3 those civil side to the criminal cases? And
4 crime filings I'm not going to touch, but the
5 statistics are what we're reporting on crime or
6 anything else like that in Boone County. I'm
7 just saying we aren't seeing decreases in the
8 number of criminal cases that are filed in Boone
9 County.

10 MR. LAMB: You brought up an
11 interesting point of something that we discussed
12 somewhat in St. Louis; the idea of probation.
13 I'd be very interested in your observations on
14 the -- the most effective means that you would
15 suggest for managing -- most effective and
16 efficient means for managing misdemeanor or
17 domestic violence probation orders. Obviously,
18 probation and parole has had very limited
19 resources, and misdemeanors do not generally
20 tend to be at the height of where the resources
21 are devoted. How would you suggest the best way
22 to manage those cases are?

23 JUDGE DANIELS: I think like many
24 things you have -- the judge has to be cognizant
25 of the resources that you have available. I

1 think it starts by if I have a person who has a
2 history of domestic violence and they come in
3 recommending a suspended execution of sentence,
4 I'm going to look at supervised probation for
5 that person. And then I'm going to realize that
6 that criminal case I still have responsibility
7 for as a judge.

8 My responsibility as a judge, I
9 believe, translates into me following diligently
10 to make sure that the conditions of probation
11 have been complied with and that I am providing
12 sufficient support to probation and parole. And
13 to do those things it means that whether the
14 report comes to me as a probation violation
15 report with a recommendation for a continuance,
16 whether it comes to me as a notice of citation
17 or whether it comes to me as a case history
18 summary, if I do not believe that the person is
19 efficiently utilizing the tools that the system
20 has given that person to be successful on
21 probation, they come in and see me. Again, no
22 magic wand. But I think the show cause hearing
23 does quite a bit to establish that I'm paying
24 attention and that it's not just a
25 get-out-of-jail card free. It is a change in

1 the behavior that results in that person being
2 successful on probation.

3 MR. LAMB: Will you as a judge, sua
4 sponte, issue a show cause or will you on
5 misdemeanor --

6 JUDGE DANIELS: Yes.

7 MR. LAMB: -- wait for a motion to
8 revoke from the prosecutor's office?

9 JUDGE DANIELS: Well, if I'm going to
10 revoke the person's probation, I believe both
11 under Chapter 559 and under Constitutional Rules
12 of Procedural Due Process that person has to
13 have notice of why I would be revoking their
14 probation. A show cause hearing is just an
15 opportunity for them to come in and visit with
16 me. I can for sure issue that order any time I
17 want to, and the way my orders read is Court
18 reviews, whatever it is from probation and
19 parole, or we have adult court services that
20 does probation periods, and I was going to reach
21 that in a minute, or just this matter of
22 unsupervised probation. If I happen to remember
23 the name and know the person has been on my
24 docket before and they get a new file, I can ask
25 them to come in and visit and to share with me

1 any day I want to. And then I say Defendant is
2 ordered to appear on a warrantable issue, and if
3 they don't come in I'm issuing an order for
4 failure to obey judge's orders, not for
5 probation violation.

6 Now, Boone County is lucky. We also
7 have adult court services through the court
8 system which is judicial probation to a certain
9 extent where we have officers that are employed
10 through the court system that follow the people,
11 and what I have said about probation and parole
12 applies to that also. Not everyone necessarily
13 needs the services to get them to the tools
14 where they need to be, and for those people
15 unsupervised probation works also.

16 What we try to do in Boone County is in
17 addition to providing an environment where
18 everyone can get together and find the courtroom
19 that they need to be in, which is an important
20 thing, we try to meet three or four times a year
21 between probation and parole, defense attorneys,
22 prosecuting attorneys, the court system, the
23 clerk's office to discuss what our problems are
24 and how we can more effectively manage what's
25 going on.

1 ATTORNEY GENERAL KOSTER: Thank you.

2 MR. LAMB: Thank you.

3 JUDGE DANIELS: And going back to the
4 question I heard addressed about the weapons.
5 Understanding that there's federal law on
6 dangerous instruments and deadly weapons, I
7 certainly make it a condition of probation which
8 I can do right now, no deadly weapons, no
9 dangerous instruments during the probation
10 period. And then when they're -- when they say
11 to me I am -- I possess many firearms that I
12 inherited from my great-great grandmother who
13 was related to Daniel Boone. What would you
14 have me do with these weapons? I always say
15 probation is a privilege and if at anytime you
16 want to come off of probation, you can come off
17 of probation and we can execute the sentence. I
18 cannot force you to stay on probation. But if
19 you want to stay on probation these are the
20 circumstances of what you need to do.

21 REPRESENTATIVE STILL: It's their
22 choice.

23 JUDGE DANIELS: It is always their
24 choice. I cannot make anybody be successful on
25 probation. I can simply give them the tools and

1 feedback that I'm paying attention to how
2 they're doing on probation. And that's all I
3 can ever accomplish because those other
4 decisions are up to them with regard to how --
5 what they want to do, how they want to proceed.

6 ATTORNEY GENERAL KOSTER: I don't mean
7 to rush you, but we're about 10 minutes over.
8 Were there -- are there a few other points that
9 you would like to make or --

10 JUDGE DANIELS: Hopefully -- I really
11 appreciate the opportunity to share with you
12 all. I do think that there are some tools out
13 there that can be utilized and that would be
14 important. And so I never wanted to come in
15 here with the illusion that I might have all of
16 the answers, but I do think we can all within
17 the parameters of where we are, without new
18 legislation, help provide some answers towards
19 solving the domestic violence problem. I
20 appreciate the Attorney General's Office in
21 bringing us all together so we can talk and go
22 forward and do better things.

23 ATTORNEY GENERAL KOSTER: Well, this
24 whole task force was -- you weren't here at the
25 beginning of the day, but it was Colleen's idea.

1 I think she approached both candidates in the
2 general election, and I think both of us equally
3 promised that we would get it done which is an
4 indication of the bipartisan respect that
5 everybody in Jeff City has for Colleen and the
6 importance of the issue. Thank you again for
7 your presentation. As always it was incredibly
8 learned and precise, and thank you for a
9 lifetime of service to the State in many
10 different aspects.

11 JUDGE DANIELS: Thank you all. And I
12 had a probate docket and didn't have any request
13 to reinstate the permit to carry concealed. So
14 we haven't had one of those in Boone County yet,
15 although I have one maybe going to be filed.

16 MS. COBLE: If I could just add a
17 public declaration of my being wrong and you
18 being right.

19 JUDGE DANIELS: No. I just think --
20 you know, what is that old saying?

21 MS. COBLE: Our first meeting of
22 talking about doing the docket, and I just
23 didn't think it could be done as quickly, as
24 cleanly and clearly as you have shown. What
25 you've done is created a model for the State,

1 and you did it by your own willpower and
2 determination and effective communication. I
3 truly appreciate it, and boy were you right.

4 JUDGE DANIELS: Thank you very much.
5 So I will go back and do a criminal docket. I
6 would love to hear the rest of it, but I need to
7 go back and handle some domestic violence cases
8 on the criminal side. Thank you all, and I'll
9 look forward to the report. Thanks again. Good
10 to see you all.

11 ATTORNEY GENERAL KOSTER: Thank you.
12 Mary Ann Allen is next to the table. She is the
13 executive director of Haven House in Poplar
14 Bluff. She drove about as far as you can drive
15 from here and still stay in Missouri. Welcome.
16 Thank you for making the trip, and we're going
17 to talk for the next several minutes about the
18 challenges of serving rural communities.

19 Mary Ann, the floor is yours.

20 TESTIMONY

21 BY MS. ALLEN:

22 Thank you. The last time I was invited
23 to speak at the Attorney General hearing on
24 domestic violence I got to meet Mr. Ashcroft,
25 and then when I heard this was the second one, I

1 wasn't offended why I hadn't been invited back.

2 I have been the executive director of
3 Haven House for 23 years so I have seen some
4 changes. Sometimes I think a lot of us in the
5 rural areas feel that the more things change,
6 the more things stay the same. So we do have
7 concerns. I was fortunate enough last week to
8 spend a good part of the week with all of my
9 colleagues from around the State, and so I was
10 able to talk with them about, you know, what is
11 it that you want me to tell this panel about
12 what our problems are, and not surprisingly most
13 of us had the very same concerns.

14 I'm really happy to hear today that all
15 of the folks from the other disciplines were
16 thinking about those problems and ways to
17 address them and have some really good answers.
18 I was really glad to hear that, and that gives
19 me a chance to keep my presentation short.

20 I also want to make the point that we
21 don't live in Boone County, and we've heard a
22 lot this morning about how things work in Boone
23 County. That is not rural Missouri. It does
24 not even resemble what we are doing in out-state
25 Missouri. So I just wanted to make that point

1 is that we do not have the resources, the
2 manpower, that kind of community to make that
3 work.

4 We also have other challenges that are
5 practical and get in the way of that, and so we
6 understand that. We do a lot with a little bit,
7 and I'm really proud of the accomplishments of
8 all the rural programs in Missouri.

9 We opened -- in fact, we're celebrating
10 our 25th anniversary at Haven House. So we're
11 one of the oldest rural programs in Missouri and
12 I'm real proud of that. We started with 19
13 beds, four residents a day, you know. Then it
14 started picking up steam in the early '90s and
15 so we had to add on beds to get up to 27. But
16 at that same time my board said, you know, this
17 is not the answer to just keep adding beds for
18 families in crisis. We need to be meeting that
19 need sooner, and so we started doing a
20 coordinated community response to domestic
21 violence before that became the buzz word.

22 What we do is we realized that people
23 should be allowed to stay in their homes.
24 Domestic violence programs everywhere, and
25 really in rural areas, are serving extremely

1 poor women. When I found myself in a situation
2 where I had to make an escape, it didn't matter
3 if I lost my furniture. It didn't matter if I
4 lost my lease because my parents fixed that for
5 me, and then my job allowed me to transfer with
6 the State of Missouri. So all of those things
7 were in place that that move was -- you know, it
8 helped me be able to make that leap into the
9 next part, better part of my life.

10 The women we serve, they come from a
11 very different background. Their families are
12 often dysfunctional, they've been in that cycle
13 of poverty, they've been victims of child abuse
14 of their own, and that's not to say that they're
15 more likely to be battered than anybody else,
16 but they just have fewer resources. And so
17 we're serving those folks. And we said, they
18 especially need to stay in their homes because
19 if they lose their couch or they lose their
20 lease, there's nobody to buy them a new couch
21 and there's nobody to give them a lease next
22 year. And if they have violence occur in their
23 public housing apartment, they never get back
24 in. So it's really important that we give them
25 those tools.

1 So we looked at that and started a
2 simple court advocacy project, and what we saw
3 that -- the same judge we had then we continue
4 to have, and he's a wonderful judge. At that
5 time he was seeing like 20 percent of folks who
6 were asking for orders of protection were coming
7 to full orders -- for hearings to get their full
8 orders. That was frustrating to the clerks. Of
9 course, it was. It was frustrating to law
10 enforcement. It was frustrating to him, and it
11 was frustrating to women being victimized.

12 So we got an advocate in our
13 courthouse, employed by us, not by the court,
14 not by the prosecutor. By us as the advocate.
15 And she -- we have had someone in place since
16 1995 there, and almost immediately out of the
17 shoot we saw about 85 percent of women coming
18 back to get full orders who asked for ex partes.
19 So the first year we had about 200 women. Now
20 we're up to about 600 women a year asking for --
21 coming to talk to the civil court advocate about
22 what she can do to stay safe in her own home.

23 So the advocate works -- and this is
24 only in Butler County because, you know, you
25 need to have somebody there every day. Not on

1 Tuesday one week and Thursday the next because
2 women get battered every day. And so we have
3 now gotten up to 87 percent pretty much every
4 year; between 85 and 89 percent of the women who
5 ask for ex partes come back to their full
6 ordered hearing. They come back because from
7 the day they go in to see the clerk upstairs who
8 sends them downstairs or they come into her
9 office, they are explained about the cycle of
10 violence, the effect it has on her children,
11 what her community resources are and what is her
12 responsibility when she has an order of
13 protection because they're not for everybody.
14 You can be in more danger by having one than not
15 having one. And we have to be honest because we
16 believe women are their own best experts.

17 ATTORNEY GENERAL KOSTER: Do you see a
18 similar increase in the participation of victims
19 in the prosecution process?

20 MS. ALLEN: Okay. What happened there
21 is that we started getting so busy that -- we
22 started out thinking that she could serve
23 everyone. Then we realized that -- as you
24 listened to the judge just now it's mind
25 boggling how complicated that is, that there was

1 no time and energy for one person so we started
 2 a part-time person based in the prosecuting
 3 attorney's office hired by us, employed by us as
 4 an advocate. This has all been through our
 5 coordinating community response. And that has
 6 now turned into a full-time position there.
 7 We've seen a great increase in the number of
 8 cases that are able to be prosecuted. We have
 9 -- we had 388 reported incidents of domestic
 10 violence in Butler County. 40,000 people live
 11 there. That's probably fairly typical. So, you
 12 know, we're seeing in those small counties
 13 around us more like 60 or 75. Those are
 14 counties where an advocate could handle all of
 15 that, but not where my civil court advocate did
 16 six -- I think there was six applications last
 17 Friday morning before lunch.

18 You know, so there's a lot of expertise
 19 that goes into the criminal court side but the
 20 very same results. You have someone -- she's
 21 picking up reports at the police station, at the
 22 sheriff's department. She's looking through
 23 those. She's making phone calls. She's
 24 explaining to women that this is -- you know,
 25 this is not Movie Of The Week and this is not

1 Law And Order. This is going to take a long
 2 time. And this is what you need to do. Do you
 3 have people to help you? Do you want me to be
 4 your support system? This is what the
 5 prosecutor is going to need from you. So she
 6 becomes that family that most of us have when
 7 we're in a crisis. She becomes that person for
 8 the folks who don't have that.

9 And we see the same thing in civil
 10 court and criminal court that we see in the
 11 shelter. People using those services tend to
 12 not have the resources that many of us do. If
 13 your family has resources you're not going to
 14 end up -- as likely end up in the criminal court
 15 system. You're going to work things out.
 16 You're not going to -- it's not going to rise to
 17 that. We very often have to become that support
 18 system.

19 We've seen that work really well down
 20 there with minimal amount of money, but
 21 certainly it's about a community effort. And
 22 we're seeing that work in other communities too.
 23 That once women understand we would like to --
 24 we would hope that that would reduce the angst
 25 of police officers who keep going to the same

1 houses over and over. You know, when they see
 2 that women know they're supposed to call, and
 3 they're supposed to call every time, and they're
 4 supposed to ask for a report, a copy of my
 5 information report I just gave you, sir. And
 6 they're supposed to have their pictures taken
 7 and they're supposed to keep these. You know,
 8 when they understand that, most of them will do
 9 it, and it makes everybody's job easier.

10 Some things that we agreed across is
 11 that respondents need to be served ex partes in
 12 a timely manner. We are seeing people not get
 13 served in jail. Now that -- you know, you can
 14 find them. It's the same department. And
 15 that's everywhere. I'm not just speaking about
 16 our county. But that's what I'm hearing is that
 17 these are things that need to be done. They
 18 have a right to a hearing in 15 days. And women
 19 have a right to get those orders of protection
 20 and move on with their lives, not continue to
 21 have them continued and to stress about that and
 22 finally just give up and say now I don't even
 23 want it. You know, and to get things decided
 24 like custody, you know, if there's going to be a
 25 divorce. I mean, there are things that really

1 need to happen so that people can move on with
 2 their lives.

3 We have the problem that women can live
 4 15 miles from us and not have a clue how to get
 5 there because they don't have a car. I'm not a
 6 big proponent of sending advocates into
 7 dangerous situations, so if they can get to the
 8 Casey's General Store or they can call a cab to
 9 get them somewhere, we'll be happy to pay any of
 10 those expenses or pick them up. But, you know,
 11 there are lots of folks we're serving that they
 12 don't have a car. They're not even on the paved
 13 road. You know, they're sitting in a trailer
 14 court and everybody in every other trailer is
 15 his aunt. They're not getting a ride to the
 16 shelter. That's how it is.

17 So we have a whole set of problems of
 18 trying to reach people and serve them. We know
 19 that police officers are supposed to get victims
 20 to a safe place, but we also know when there's
 21 one road deputy he or she doesn't really have
 22 time to haul somebody from, you know, Neelyville
 23 all the way up to Poplar Bluff when there's
 24 another call going on. So all those things come
 25 into play. We know that's a problem. So that's

1 one of the things we say we don't know the
2 answer but it is a problem.

3 Across the board everybody said get law
4 enforcement some training. And I know they get
5 training, but I loved hearing this morning that
6 we would even entertain the idea of ongoing
7 required domestic violence training. There's
8 ongoing POST training but that's also pick and
9 choose to fit those areas, not on topic.

10 So it would be a wonderful thing if we
11 could refresh that from the top down because
12 there are cultures in every community, there are
13 cultures in every business, there are cultures
14 in every service area and office, and we all
15 know that. And so there needs to be a culture
16 in law enforcement that this is a priority. 388
17 reports in our county is more than one a day.
18 There probably aren't very many crimes that
19 there are more than one a day of. So we know it
20 is a big deal. So we feel like that is an
21 example right there.

22 I also appreciated when we talked about
23 getting certification for police departments.
24 I'm on my health department board, and our
25 health department had to be certified to pass

1 all these tests to get to -- so it raises you up
2 a level. I think that's a wonderful idea as
3 part of maybe domestic violence being a
4 component of that, that when, you know, they're
5 looking at funding or whatever, that they have
6 worked towards those goals of excellence in
7 serving victims of domestic violence. So that
8 would be something.

9 We want to get those guns out of those
10 batterer's hands. Missouri is No. 7 in the
11 number of women killed by their partners. That
12 is nothing to be proud of.

13 ATTORNEY GENERAL KOSTER: Where is that
14 statistic accessed from?

15 MS. ALLEN: Department of Justice.

16 MS. COBLE: Department of Justice
17 released it Thursday.

18 MS. ALLEN: We tied with Arkansas. So
19 that's not a good thing. And most of those
20 probably were killed by guns. I don't know
21 that.

22 MS. COBLE: Majority.

23 MS. ALLEN: One thing that -- and we're
24 in a situation now in the rare cases that we
25 hear in our circuit where the guns are removed

1 is that one judge gave it to his brother to
2 hold. Well, batterers don't just come out of
3 nowhere, and so we know that that may not be the
4 safest place to store a gun when your brother is
5 looking for somebody. So those are things to
6 think about.

7 Another interesting thing that came up
8 that you're not going to hear in St. Louis or
9 Kansas City. There's this black powder season
10 for hunting. Do you know what that is? It's a
11 muzzle gun thing. It's not a firearm because it
12 doesn't fire. So we've had situations recently
13 guys are driving by their victim's homes with
14 these black powder things going I'm not in
15 violation of anything because it's not a gun.
16 That's about power and control and manipulation.
17 And those are the kinds of things that we really
18 -- if we're going to stop domestic violence we
19 have to remember that people who choose to
20 batter understand power and control. Which
21 leads me to my next topic, and that is
22 batterer's intervention.

23 Batterer's intervention needs to have
24 some teeth in it. Does it work? I don't know.
25 It's pretty new. I went to the Duluth Model

1 Training, and that's the one we use, 26 weeks.
2 What we see is people who can afford attorneys
3 get those dealt down to nothing or anger
4 management which is just kind of silly for
5 someone who uses power and control. They manage
6 their anger very well. But we see men who tend
7 to be in the same situation don't have a lot of
8 resources. They also -- if they end up on
9 probation, we don't see a lot of times that
10 that's a priority through the Department of
11 Corrections for our probationers to do that. We
12 don't see especially with private probation that
13 there's a real push for them to complete that.

14 We feel like if you get sentenced to
15 batterer's intervention that should be one of
16 the first things you sign up for. That's 26
17 weeks you're committed to. Everybody knows you
18 would miss a few weeks along the way, but you
19 should not get to wait 3-1/2 years on a 5-year
20 probation to start batterer's intervention when
21 there's someone in danger out there. You can do
22 financial management later. You can do all
23 kinds of things later, but that is critical, and
24 it doesn't always happen.

25 Another thing about batterer's

<p style="text-align: right;">Page 210</p> <p>1 intervention is we cannot leave victims out 2 there by themselves while their abusive partners 3 are going through batterer's intervention. We 4 need to have -- we have an outreach advocate 5 assigned especially just to those women whose 6 partners or former partners are in batterer's 7 intervention because we know the danger will be 8 heightened when they're in a class telling them 9 that they've made bad choices or -- you know, 10 and they're working through some of their own 11 things. 12 One thing also when we talked about the 13 circuit clerks that I have -- what we have done 14 there, and I know they've been cross-trained and 15 everybody knows how to do everything, and that's 16 a great theory for all the many things that 17 clerks do. We have one clerk who we paid for 18 and we had to like -- she had to go through 19 volunteer training otherwise she couldn't come 20 to the training for this, but we tricked the 21 Coalition. No. No. We made her go -- she came 22 and she went through volunteer training, became 23 a real volunteer at Haven House and she did 24 volunteer on the side. I'm just joking. 25 Then she was allowed to go to State</p>	<p style="text-align: right;">Page 212</p> <p>1 counties don't have an advocate? 2 MS. COBLE: More than half. 3 MR. LAMB: I don't know the exact 4 number, but there's a significant number, and we 5 could get those. 6 REPRESENTATIVE STILL: And where are 7 most of the advocates stationed? In the clerk's 8 office? In the prosecutor's office? 9 MS. COBLE: It depends. 10 MR. LAMB: It does depend. 11 MS. ALLEN: You know courthouses. 12 They're vying for space. You know, we'll take a 13 broom closet if we can get it. But we have nice 14 offices. We have one -- one of ours is in the 15 prosecutor's office. She's the criminal one, of 16 course. And then the other one is just 17 downstairs and has an office. I mean, we get 18 moved around once in a while, but in return 19 we've done some remodeling and decorating and -- 20 I mean, we barter. 21 ATTORNEY GENERAL KOSTER: Again, I have 22 another uneducated question. If having a clerk 23 assist in the filling out of a form runs the 24 risk of practicing law without a license, and if 25 that's the rationale, why isn't the same</p>
<p style="text-align: right;">Page 211</p> <p>1 conference and to some court advocacy training, 2 and what we got from that clerk in the office 3 was buy-in. She was no longer handing people a 4 piece of paper and going oh, it's my turn again. 5 Because they have a million things to do and the 6 woman is always upset and all those difficult 7 things, but once you really understand you're -- 8 then you're really an advocate. You can't help 9 yourself. So I don't have to worry if Jennifer 10 is stuck in court all day long. I have somebody 11 in the clerk's office who will be taking care of 12 those folks and will be calling downstairs to 13 say he's in there. He's in jail. Those kinds 14 of things that are just a little bit beyond what 15 they have to do, but that's certainly a way that 16 we can -- that we can collaborate. And those 17 counties that can't afford to have an advocate, 18 if we could have somebody say, you know, I could 19 step up and do that. Maybe that's not possible. 20 I don't know, you know, to do that in all 21 offices, but I think it's a matter of really not 22 saying that's just one more thing we have to do 23 but this is something that I'll be willing to 24 do. 25 ATTORNEY GENERAL KOSTER: How many</p>	<p style="text-align: right;">Page 213</p> <p>1 rationale applicable to an -- 2 MS. ALLEN: It is. We don't do it 3 either. 4 ATTORNEY GENERAL KOSTER: Okay. So if 5 you don't do it either what -- why -- 6 MS. ALLEN: And here's our dilemma. 7 We're not allowed to write on the paper. You 8 know, you can -- it's about telling them which 9 kind of order to get, right? I mean, those are 10 the kind -- you don't want to give that kind of 11 advice. But to say I don't know what that word 12 means. It was pointed out by one of my 13 colleagues today that many of our clients who 14 come in don't know how to read and write. 15 That's the truth. And you might say I think 16 incident is spelled I-N-C-I -- you know, so that 17 the judge can read them when they get them, but 18 they have to do that themselves and it takes 19 awhile. 20 ATTORNEY GENERAL KOSTER: So when you 21 train the advocates there's a limit to which you 22 will allow them to participate in the 23 decision-making process filing out that form? 24 MS. ALLEN: Right. Right. 25 MS. COBLE: So that you might be saying</p>

1 what's helpful here is for a judge to know the
 2 first thing that happened or what was the worst
 3 thing that happened to you, what was the most
 4 recent thing that brought you into the clerk's
 5 office today that makes you so afraid right now.
 6 So those kinds of things. But if you're -- it's
 7 a fine line, and it can be very difficult.
 8 MS. ALLEN: And pre-court advocate days
 9 I went to courthouses -- five different
 10 courthouses and it was one of these numbers.
 11 And you know, they're hard to read and you have
 12 this much space, and she said, he said he would
 13 kill me and the judge goes so. What he needs to
 14 know is that he held a gun to my head last year.
 15 He did this to me six months ago. He said, he's
 16 going to kill me. I believe it. The judge
 17 might believe it too, but he or she has to have
 18 that information. And so that's the kind of
 19 assistance that's given. Not what you should
 20 apply for or not -- you know, and not writing it
 21 out. So you have to walk a fine line.
 22 ATTORNEY GENERAL KOSTER: If I could
 23 ask a question of Greg? Greg, what is the --
 24 what would the clerks' reaction be to Mary Ann's
 25 suggestion that the clerks are trained on this

1 in order to partially sensitize them to it, if
 2 they're trained also to stop at a certain level
 3 of advice or counseling that they can provide?
 4 MR. LINHARES: There's a clerk sitting
 5 right behind me so I might defer to Christy more
 6 than --
 7 ATTORNEY GENERAL KOSTER: Would you
 8 identify yourself for the record?
 9 MS. BLAKEMORE: Christy Blakemore,
 10 Circuit Clerk, Boone County.
 11 ATTORNEY GENERAL KOSTER: Blakemore?
 12 MS. BLAKEMORE: Uh-huh.
 13 ATTORNEY GENERAL KOSTER: Welcome.
 14 MS. BLAKEMORE: Thank you. We would be
 15 happy to do that. And I think a lot of ours is
 16 we don't have that background, that mindset of
 17 an advocate. You know, we've got the mindset of
 18 we've got to get this paperwork done as quickly
 19 as possible, get it to the judge, and I've got,
 20 you know, 20 more sitting over here that have to
 21 be processed. That's our mindset. If we had
 22 the people to do that, I think across the board
 23 clerks would be happy to help out in that area.
 24 We just don't.
 25 They're not -- clerks aren't just doing

1 the ex partes. They're also doing divorces.
 2 They're doing name changes. They're doing --
 3 you know, that's the problem.
 4 ATTORNEY GENERAL KOSTER: Thank you.
 5 MR. LINHARES: It's where the facts end
 6 and the law begins. I mean, that's the question
 7 really.
 8 REPRESENTATIVE STILL: A question for
 9 Christy or anyone else. Is it acceptable if
 10 there were a trained volunteer to have them
 11 stationed at a clerk's -- in a clerk's office?
 12 MS. BLAKEMORE: Of course, yeah. And
 13 we've got them -- the prosecutor's office,
 14 they're up there and they help out a lot. True
 15 North helps in Boone County a lot. If they --
 16 if it is one that is very difficult, a detailed
 17 one, lots of times we will suggest to them you
 18 might want to go, you know, talk to the shelter.
 19 We'll be happy to give you the paperwork, but if
 20 you're going to need additional assistance,
 21 maybe a place to stay, then a lot of times we
 22 will suggest that to them. They don't have to,
 23 but we'll suggest it.
 24 MS. ALLEN: In our situation that's the
 25 first thing that they do is say the advocate is

1 downstairs. This is where her door is, by the
 2 Coke machine. You know, but because we have
 3 that luxury of being in the courthouse.
 4 MS. COBLE: It's real hard to do that
 5 with a volunteer; to have any consistency.
 6 MS. ALLEN: I would say impossible.
 7 MS. COBLE: It's been tried and not
 8 worked.
 9 MS. LAMB: But it can work. I came
 10 from Audrain County which is a rural county so I
 11 empathize with you. Absolutely. And our
 12 circuit clerk had a relationship worked out with
 13 the local shelter, which I was on the board of,
 14 and that individual was a paid individual, and
 15 they were stationed at that office, and that
 16 made a world of difference. So those creative
 17 solutions are out there.
 18 MS. COBLE: Well, and I might add too,
 19 probably the only time that bright line gets
 20 drawn, quite frankly, between you're assisting
 21 and you are providing legal advice is if there's
 22 been some other conflict in the community
 23 involving those players. If it's helpful to
 24 have those forms filled out very cleanly, you
 25 are not likely to be in trouble for unauthorized

<p style="text-align: right;">Page 218</p> <p>1 practice of law. If there has been any type of 2 public conflict between the judiciary and other 3 members of the community then all of a sudden 4 there's a line. And I encountered that. You 5 know, that all of a sudden then everything had 6 to be checked by legal services which meant that 7 things couldn't get done. And it was just a 8 point of personal conflict. 9 If you get together in those 10 coordinated community response meetings you can 11 actually avoid that and maybe get some greater 12 clarity on where those lines are. 13 ATTORNEY GENERAL KOSTER: The broader 14 point goes again to the Sheriff's Association 15 message from earlier which is there are a lot of 16 enforcement agencies besides law enforcement 17 themselves that need -- that would benefit from 18 training. 19 MS. ALLEN: Right. 20 ATTORNEY GENERAL KOSTER: Continue. 21 MS. ALLEN: I have one thing to add on 22 the gun issue is that my civil court advocate 23 told me that probably 50 to 60 percent of the 24 victims that she works with report that guns are 25 involved in the abuse committed against her. So</p>	<p style="text-align: right;">Page 220</p> <p>1 of you guys. As you said, I'm the executive 2 director of the Kansas City Anti-Violence 3 Project, and we work with lesbian, gay, bisexual 4 and transgender victims of violence and that 5 includes domestic violence. 6 Thank you to the Attorney General for 7 bringing up the LGBT issue. We're very excited 8 to have Joan Gummels who we've worked with in 9 Kansas City a little bit and to have the LGBT 10 related human rights complaints come out. We 11 were pleased to see that. And thank you for 12 including the LGBT voice in the discussion of 13 domestic violence, and thank you to the rest of 14 the panel as well. 15 I don't know if you guys received a 16 power and control wheel, or if you've seen them 17 before, but this is something that we use 18 specifically in the LGBT community. There are a 19 few more spokes on that wheel that you won't see 20 on the other wheels that typically use gender as 21 a screening tool and as the binary to talk about 22 domestic violence. 23 So the Kansas City Anti-Violence 24 Project grew out of a gap in services; a very 25 identified gap; a murder/suicide that happened</p>
<p style="text-align: right;">Page 219</p> <p>1 it's not like occasionally someone has a gun. 2 It's half the time there's a gun involved. And 3 we're No. 7. There's a reason for that. 4 ATTORNEY GENERAL KOSTER: Any other 5 questions for Mary Ann? 6 REPRESENTATIVE STILL: I want to say 7 thank you for your outstanding service. 8 MS. ALLEN: Thank you. 9 ATTORNEY GENERAL KOSTER: Thank you for 10 your service and for a great presentation. We 11 appreciate it. 12 Savitsky? 13 MS. SAVITSKY: Yes. 14 ATTORNEY GENERAL KOSTER: Beth Savitsky 15 who is in from Kansas City today who is the 16 executive director of the Kansas City 17 Anti-Violence Project is welcome. She has 18 driven to Columbia today to offer personal 19 perspectives on the domestic violence issue. 20 Thank you again for making the drive and joining 21 us. 22 TESTIMONY 23 BY MS. SAVITSKY: 24 Thank you very much for having me here 25 today. I'm honored to sit at the table in front</p>	<p style="text-align: right;">Page 221</p> <p>1 actually on the Kansas Metro Side of two gay 2 men. So the community started talking if the 3 victim, who was a gay male, was to call the 4 domestic violence hotline, would he receive 5 services, and the answer was no. Typically what 6 would happen is that someone would hear a male 7 voice on the hotline and say I'm sorry, we don't 8 serve men and hang up on him. 9 So we recognized the use of gender as a 10 screening tool when working with domestic 11 violence victims and formed our own 12 organizations to address the issue of violence 13 in our own LGBT communities. We worked closely 14 with the Missouri Coalition Against Domestic and 15 Sexual Violence. We're also part of the sister 16 organization, The Kansas Coalition, and we also 17 worked a lot with the National Coalition of 18 Anti-Violence Programs that works with 19 organizations that deal with LGBT victims across 20 the State. 21 We received our 51(c)3 in 2003 so we're 22 a fairly young organization. We've participated 23 in domestic violence reports with the FCADSB, as 24 well as nationally there's an annual report that 25 talks about LGBT victims of domestic violence.</p>

1 That's released every year, the only report of
 2 its kind. So to talk a little bit about the
 3 population that I'm referring to, LGBT
 4 communities, we talk about LGBT folks being
 5 about 10 percent of the community. Sometimes
 6 people argue that it's not quite that many. So
 7 if we use a rough estimate of 5 percent of the 6
 8 million folks in the State, that's about 300,000
 9 people in the State of Missouri that identify as
 10 LGBT. We're affected by domestic violence in
 11 quite the same ways and at quite the same rates.
 12 It's 1 in 4. So that's potentially 74,844
 13 people in the State of Missouri that need help.

14 Over the last seven years we've grown
 15 out of very intense collaborative relationships
 16 with other service providers, a growth of our
 17 services, a growth of need for our services, and
 18 we have a unique mission. We're the only agency
 19 in Missouri that works specifically with LGBT
 20 victims. We're a non-residential program. We
 21 offer direct services to victims as well as
 22 outreach and education that partners with other
 23 groups and organizations to educate them on the
 24 topic.

25 Our direct services program helps folks

1 with crisis intervention, case management,
 2 emergency assistance; a lot of the other
 3 services that you will see in similar programs,
 4 as well as having an LGBT resource guide of
 5 folks that we've screened to be LGBT or LGBT
 6 friendly. So it's not an obstacle for folks who
 7 are calling for help to worry, well, if I tell
 8 them that I'm gay, is that going to be an issue,
 9 or are they going to tell me well, you know, if
 10 you partnered with someone of the opposite sex,
 11 you wouldn't have this problem.

12 We've helped folks like Jake. Jake was
 13 one of our clients. He was with his partner for
 14 11 years. His partner continually threatened to
 15 out him to his employer. He was a high school
 16 teacher. He was very concerned about losing his
 17 job, a very real thing that can happen. His
 18 partner would oftentimes emotionally berate him
 19 while he beat him and tell him that no one would
 20 care if he was not in this world because it's
 21 one less gay man to deal with.

22 He found out about KCAVP, and we worked
 23 with him to relocate him to a school that had
 24 protection. There are certain areas of the
 25 State that have protection. And so he was safe

1 in his job if anyone found out, and he had a
 2 place to live away from his abuser.

3 Since we began we've served over 270
 4 victims; victims and survivors of domestic
 5 violence. We've also provided almost 170 safe
 6 bed nights to victims. Again, we're
 7 non-residential. We partner a lot with hotels,
 8 with community -- with our hotel partners as
 9 well as transitional living programs in the area
 10 that we've worked with.

11 As you can see on the power and control
 12 wheel there are a few tactics that LGBT folks
 13 experience that non-LGBT folks don't. In terms
 14 of using someone's identity against them in the
 15 power and control context, those can be very
 16 powerful tools. If someone really -- if part of
 17 who you are is part of the abuse, it's a very
 18 difficult thing to work out. And we also have
 19 to navigate other systems very carefully because
 20 we don't necessarily have the same opportunities
 21 and protections as everyone else.

22 Our outreach and education program goes
 23 out to the community to advertise our services
 24 as well as train a whole bunch of people. We've
 25 trained over 2700 people in the State of

1 Missouri since we've started. This includes
 2 information about issues of homophobia,
 3 biphobia, transphobia, the terminology of LGBT
 4 issues, how to support LGBT victims if they
 5 disclose that they are LGBT, how to talk about
 6 intake forms, gender neutral language, those
 7 kinds of things. So we recognize that those
 8 barriers are system wide and sometimes we have
 9 to, again, navigate those systems very
 10 carefully.

11 ATTORNEY GENERAL KOSTER: Can I ask you
 12 a question?

13 MS. SAVITSKY: Sure.

14 ATTORNEY GENERAL KOSTER: I think this
 15 is the only area of State law in which State law
 16 expands to the LGBT community in any regard. Do
 17 you find that in the Jackson County area or more
 18 broadly than that that the courts are responding
 19 to needs, concerns, situations in an open and
 20 unbiased fashion?

21 MS. SAVITSKY: Sure. Well, yes and no.
 22 A lot of the times folks don't want to go to
 23 court because they have to out themselves in
 24 court, and so basically their relationship is
 25 out on the table for everyone to see. So a lot

1 of times folks don't want to even get a
2 protection order because it outs them. When
3 they do oftentimes -- there have been mutual
4 orders that have been granted. There have been
5 occasions where judges have ordered for there to
6 be -- I've forgotten the word. Where they --
7 where there's -- where they talk to each other.

8 MR. LAMB: Mediation.

9 MS. SAVITSKY: Thank you. There you
10 go. I lost my words. Rather than order an
11 issue they don't recognize; that because it's
12 two men or two women that there is power and
13 control of the situation. Depending on the
14 judge they -- it varies. Most of the time if
15 they -- our advocate and staff is becoming more
16 and more apparent in the community, and they'll
17 recognize that we are just the same kind of
18 victim as anyone else, and they'll take the case
19 seriously.

20 ATTORNEY GENERAL KOSTER: And for that
21 group of people who reach out to you for
22 overnight shelter services, are you able to
23 serve -- so far have you been able to serve all
24 of the requests, some of the requests? Do you
25 have to turn away -- are you able to --

1 MS. SAVITSKY: Occasionally we do have
2 to turn away. Typically because it's short-term
3 and that's -- it's a safety issue, we usually
4 will be able to meet that request. If the issue
5 is longer term we like to talk about safety
6 issues, what's going to happen after two days.
7 If it's not -- if they're going to go back, can
8 we talk about safety issues going back, or if
9 they want to get out of town we've oftentimes
10 worked with another anti-violence program
11 somewhere else to transport the individual to
12 either another shelter or transitional living
13 program somewhere else that there's more support
14 or if they have family and friends get them out
15 of town as well.

16 ATTORNEY GENERAL KOSTER: How many
17 hotel chains do you work with?

18 MS. SAVITSKY: Currently there's three.
19 We're always looking for more partners.

20 MS. KOSTER: Are they large corporate
21 hotels or are they --

22 MS. SAVITSKY: It just depends on the
23 manager; the relationship that we have with that
24 hotel manager. Because of the gender neutral
25 language in all of the grants that we get we

1 utilize a lot of the same funding that other
2 programs do and so those are some of the funds
3 that will help us pay for hotels.

4 ATTORNEY GENERAL KOSTER: Continue.

5 MR. SAVITSKY: Sure. So as I was
6 talking about the education outreach that we do,
7 we like to weasel our way in sometimes to
8 unfriendly places, but we always try and talk to
9 friendly places, whether it's other service
10 providers, schools, law enforcement, courts.
11 We'll really try and get to other groups and
12 say, you know, when you're talking about abuse
13 and relationships are you really making sure
14 that you're not leaving certain communities out
15 of the services that you're providing.

16 So we talk about victims of domestic
17 violence coming from all different communities,
18 and unfortunately, we're not always included in
19 the discussion. So again, I really appreciate
20 that. We couldn't have done what we do without
21 the help and support from other communities and
22 other folks that recognize that domestic
23 violence is an issue for everyone and it doesn't
24 leave certain communities out.

25 So again, thank you for the time today,

1 and thank you for your dedication to making
2 Missouri safer for everyone. I appreciate it.

3 ATTORNEY GENERAL KOSTER: Thank you.
4 Mary?

5 REPRESENTATIVE STILL: I am going to
6 have to leave, but, Beth, I want to say this is
7 very enlightening, and you have a lot of
8 courage, and I appreciate that. And, General,
9 thank you for your leadership on this issue.
10 Colleen, as always, thank you.

11 ATTORNEY GENERAL KOSTER: Any other
12 questions for Beth? Thank you very much for
13 your --

14 MS. COBLE: Are there specific
15 resources that would help your program in
16 certain ways, do you think? I'm thinking
17 particularly because there are so few other
18 identified focused programs like yours. Is
19 there anything that that -- it places you in a
20 unique position of need for -- you are a
21 statewide resource in that regard.

22 MS. SAVITSKY: Well, we really do rely
23 on our partner agents across the State. So when
24 we talk to an advocate in Jeff City about
25 someone who is in their area that can't get to

<p style="text-align: right;">Page 230</p> <p>1 Kansas City, it's helpful having those -- having 2 that education for those other programs, talking 3 about, well, if you have someone who sounds male 4 on the phone how to not -- how to work with that 5 person successfully. So, you know, training, 6 which you guys do. You know, we come to annual 7 conference. We come to other regions to talk 8 about how to work with LGBT agencies. So we've 9 really found that other agencies are open to 10 hearing the information. 11 In terms of resources, you know, we're 12 a staff of four. So we are a very small 13 program. It's always nice to dream about a 14 bigger staff and more advocates being able to do 15 more outreach to more locations. So maybe -- 16 you know, looking at a regional issue across the 17 State of Missouri. 18 ATTORNEY GENERAL KOSTER: Thank you 19 very much, Beth. 20 Our next and final witness today is 21 Katherine Wessling. Welcome. Katherine is 22 managing attorney for Legal Advocates for Abused 23 Women, and is here to offer a civil 24 practitioner's perspective on these issues. 25 TESTIMONY</p>	<p style="text-align: right;">Page 232</p> <p>1 is for there to be changes so that the judges 2 have to address child custody and child support 3 issues. Because in many, many of our cases they 4 will say okay, we're giving the order of 5 protection but all the rest of that stuff, go 6 file for divorce, go file for paternity, do 7 whatever you need to do. And the whole point of 8 the order of protection is to get immediate 9 relief so that this relationship can end in a 10 safe and viable way. And if the only thing that 11 the courts are willing to do is to make the 12 blanket order don't abuse anymore, we are 13 ignoring all of these practical problems that 14 are the reasons why people return to a 15 relationship that is not healthy. It is not 16 because they like the relationship. It is 17 because they need to feed their children, 18 because they don't have a place for them to 19 sleep at night. So ignoring all those parts of 20 the statute is a huge problem, and it happens 21 many, many times. And I serve seven counties, 22 and it's almost a universal problem. 23 ATTORNEY GENERAL KOSTER: So the Judge 24 Michael in St. Louis who testified. 25 MS. WESSLING: Burton.</p>
<p style="text-align: right;">Page 231</p> <p>1 BY MS. WESSLING: 2 Good afternoon. 3 ATTORNEY GENERAL KOSTER: Thank you, 4 Katherine. 5 MS. WESSLING: Thank you for having me 6 here. As you said, I work for Legal Advocates 7 for Abused Women which is a non-profit agency in 8 St. Louis, and the only things we do there in 9 terms of legal assistance are orders of 10 protection. So in my time there I've probably 11 done almost 3,000 of those. I've been there 12 since 1996. We serve seven counties, and we do 13 serve the LGBT community as well. So we do try 14 to help where we can. 15 What I'd like to do today for you is to 16 tell you what I and others in the community, 17 because I took a little bit of a pole when I 18 knew I was coming today, have identified in 19 Chapter 455, the Adult and Child Order of 20 Protection Statute, of places where we could 21 really use some help. So I'm going to go over 22 those, and then I have them for you in written 23 form, but I don't want you reading them. I want 24 you to listen. 25 Universally the thing that people want</p>	<p style="text-align: right;">Page 233</p> <p>1 ATTORNEY GENERAL KOSTER: Does Judge 2 Burton when he handles these orders deal with 3 child support issues? 4 MS. WESSLING: He would, but he 5 primarily is in the juvenile courts. And my 6 orders of protection don't go in front of him. 7 They go in front of the family court judges who 8 are doing divorce and paternity and that kind of 9 thing. 10 ATTORNEY GENERAL KOSTER: Do some 11 judges deal with the child support and custody 12 issue? 13 MS. WESSLING: Some will. Some will. 14 But there's resistance from many of them. 15 There's resistance from more of them than there 16 is acceptance by the others. That's 17 unfortunately what we face. 18 ATTORNEY GENERAL KOSTER: Who makes the 19 request to the judge to even deal with that, 20 because a petitioner may go in front of the 21 judge ex parte and not know to ask these things? 22 MS. WESSLING: Well, hopefully they 23 were given help when they filled out the form, 24 the petition for the order of protection, 25 because it's a check box that they can check</p>

1 off. And so hopefully they checked the box off
2 when they filled out the petition for the order
3 of protection. If they didn't, of course, then
4 we have a due process issue and we can't just
5 walk in and say now we want to do this. But
6 hopefully they have checked the box, and many
7 times they have checked the box. That's not our
8 problem. It's just resistance by the Court.

9 ATTORNEY GENERAL KOSTER: Can you deal
10 with these issues prior to a full order? If
11 you're in a temporary order situation without
12 the admission of evidence and you have no idea
13 what his salary is and you really only have a --
14 you don't have a good view of what has happened
15 last night or earlier tonight. A judge is not
16 equipped to make such decisions at that juncture
17 or do you disagree?

18 MS. WESSLING: They're not equipped to
19 make child support decisions, and I don't really
20 quibble with that. Sure I'd like to have it
21 there, but I understand the legal reasons why
22 they're not going to jump in and start doing
23 that. At the ex parte level they can make
24 custody determination, and that, again, on
25 occasion has been a problem where the judges

1 choose to -- there are four things they could
2 issue with the ex parte level. They can order
3 not to abuse, that whole thing. They can order
4 to make the abuser leave the home. They can
5 have the abuser not communicate with the victim,
6 and they can give custody of the children to the
7 person who filed.

8 ATTORNEY GENERAL KOSTER: Is that in
9 the statute now?

10 MS. WESSLING: Yes. That's in the
11 statute now. And it's very judge specific as to
12 whether they will actually go ahead and make
13 that custody order. That custody order can
14 cause someone problems if they don't make it
15 because we have a child snatching issue going on
16 and people are afraid to send their children to
17 school. So it really -- it shouldn't
18 necessarily be laying a premise for what will
19 happen farther down, because I agree the judges
20 haven't heard the evidence yet. But at least to
21 tell people what the ground rules are instead of
22 this 15-day waiting period where everyone is
23 just in a free for all. So it's a real problem.
24 And many more people will dismiss their
25 petitions and give up on the court system over

1 that than almost anything else from what I see.
2 ATTORNEY GENERAL KOSTER: With all the
3 experience you have in the legislature how do
4 you think the legislature reacts to such an
5 idea? And maybe if it was confined to the full
6 order.

7 MS. COBLE: But the moment of danger is
8 for the children as well, and the premise of an
9 emergency order of protection is I am in danger,
10 and I need assistance from the courts. The
11 children do not live on planet child. They are
12 with their mom more typically, and yet they --
13 that unit of the family that can be together
14 safely is not recognized. And there's hesitancy
15 within the General Assembly.

16 There's been hesitancy from the bench
17 that that is -- that is the side door divorce,
18 and -- which I think is an incorrect framing of
19 the issue because it's 15 days of safety.
20 Surely we can grant 15 days of safety. If the
21 judge has sufficient information to believe
22 there is a risk of danger to sign the order to
23 begin with, that's sufficient for 15 days these
24 children are in the custody of this person who
25 says that they're at risk and need to be

1 protected.

2 ATTORNEY GENERAL KOSTER: Joan, I'd be
3 interested in knowing Judge Daniels' view on the
4 custody and child support issue. It's really --
5 it's a powerful idea but a lot of aspects to
6 consider.

7 MS. COBLE: The custody provision has
8 been there since 1980.

9 MS. WESSLING: Yeah. It's just whether
10 they use it or not. And what you'll kind of see
11 -- that's my first point because it's so
12 prevalent, is almost everything I'm going to say
13 has that same common thread running through it,
14 that we are looking at she's prob -- is she
15 making this all up to get an advantage in the
16 divorce. That's unfortunately a very prevalent
17 fear in the courts, and unfortunately a lot of
18 times I'm battling against that presumption
19 rather than a feeling of we want to help a
20 person who's really in danger.

21 So we have that as Point 1. Point 2 is
22 there's a provision in the statute, 455.050,
23 that says if -- that the courts of full order
24 can only issue a custody order if there's no
25 prior order already out there existing or

1 pending regarding custody.
 2 Now, this pending word is a problem
 3 because what will happen is my client will file
 4 an order of protection. We will go for the
 5 hearing two weeks later, and the day of the
 6 court hearing the respondent will walk in with
 7 his attorney and say I filed for divorce five
 8 minutes ago, and the judge will say okay. That
 9 wipes everything out. We'll deal with whether
 10 we're going to order him away from you or not
 11 but we're not going to deal with custody,
 12 support, anything like that.

13 She may not have been served. There's
 14 no hearing set that's going to deal with any of
 15 these issues, but for many judges because that
 16 word pending is in there they will interpret it
 17 that way. As soon as something is filed they
 18 consider it pending, and without service they
 19 don't even have jurisdiction over it yet, but
 20 they will still consider it pending. And so
 21 that's a real common way for abusers and their
 22 lawyers to make the order of protection process
 23 very meaningless for the person who needs the
 24 protection.

25 It would really help if we could have

1 some adjustment to that word in the statute. I
 2 understand if there's an existing order that's
 3 already in existence and there are other ways to
 4 modify that, but when there's no order already
 5 out there and it's just maybe some day we'll get
 6 one, it's a problem. And so that -- that goes
 7 along with that first one.

8 There is a provision we fixed not long
 9 ago -- well, probably a little while ago now
 10 about mutual orders of protection. The statute
 11 right now says there's no mutual order of
 12 protection that can be entered unless both
 13 parties have filed a petition asking for an
 14 order of protection against the other. You
 15 can't walk in with one person having filed and
 16 suddenly say you both have an order of
 17 protection against the other. Well, the problem
 18 is the same thing.

19 The abuser or the other side will walk
 20 in the day of hearing or maybe right after they
 21 got served, file for an order of protection, and
 22 the easiest thing for the Court to do is to say
 23 why don't we just say stay away from each other.
 24 We'll give you both an order, and what's the
 25 problem with that if you don't want to be around

1 each other anyway. Well, the problem is after
 2 years of being told no one is going to believe
 3 you, no one believed you. So it really gives
 4 the courts an out to not fact find. We need the
 5 courts to do their fact finding to figure out
 6 who they think is the person asserting the power
 7 and who isn't. And when mutual orders of
 8 protection are allowed, it just doesn't happen.
 9 So I would really like to see the law be strong
 10 enough to say there are no mutual orders of
 11 protection.

12 If two people are violent -- and
 13 violence and abuse are two different things. If
 14 two people are violent maybe neither one needs
 15 the order of protection. Speaking from my own
 16 perspective on that. But if someone is actually
 17 being abused, we need the courts to make a
 18 decision on who it is and then to move forward
 19 to protect that person. So I would suggest that
 20 you look at that because that's a real problem
 21 for victims as well.

22 Another bootstrapping thing that comes
 23 in is paternity. A lot of people who file
 24 orders of protection are not married to each
 25 other or they haven't gone through already a

1 legal lawsuit to figure out if dad is the dad of
 2 the child. So what happens is, you know, 10
 3 years into this child's life no orders of child
 4 support have gone on the whole time. There's
 5 been nothing in concrete saying he's the dad.
 6 Mom files a child's order of protection and
 7 suddenly it's I want every other weekend with
 8 the child, and they're skipping the whole
 9 establishing that they're the legal father in
 10 the first place. You know, it's like have the
 11 cake but I didn't want to pay for it first kind
 12 of thing.

13 I think it would really help if the
 14 statute would clarify that without a legal
 15 establishment of paternity there shouldn't be
 16 visitation discussion. There also shouldn't be
 17 child support ordered because maybe he's not
 18 really the dad. I mean, I'm not saying I want
 19 it all either, but it needs to be established
 20 before the order of protection process, not in
 21 the middle of it just because everybody knows
 22 he's dad and now we're going to pretend like the
 23 paternity laws aren't relevant anymore. It
 24 happens a lot that way.

25 I'll admit that with my clients

1 sometimes that will put them at a little
2 disadvantage because they want that child
3 support, but there are more of my clients who
4 are worried about the safety of their children
5 then there are clients who are doing it for
6 child support.

7 ATTORNEY GENERAL KOSTER: Do you worry
8 that that determination could delay the process
9 for weeks and maybe a couple months? What's it,
10 a DNA determination?

11 MS. WESSLING: Well, I don't think
12 that's an order of protection issue. The order
13 of protection process should go on. It's
14 separate.

15 ATTORNEY GENERAL KOSTER: Paternity.

16 MS. WESSLING: Paternity can go be its
17 own thing. Someone can file for paternity. If
18 they want visitation rights, do it the way the
19 law has set up for it. Don't mix it in with the
20 order of protection. I think they're two
21 separate things, and they should be kept
22 separate.

23 Okay. This one is a little bit -- this
24 is one that came from some advocates who work
25 with the police department. In the order of

1 protection process we have mostly standing
2 categories that require some sort of intimate
3 partner relationship between the parties, but
4 then we have this catchall about stalking, and
5 what happens is that people go and file
6 petitions of orders of protection alleging
7 stalking when their neighbor has their tree
8 hanging over their driveway and won't cut the
9 branch off, or there's a big fight among a whole
10 bunch of kids in the neighborhood.

11 I was in the courtroom not two weeks
12 ago when the judge called the case and 10 people
13 stood up because the entire block was there.
14 You know, they're fitting these other situations
15 into this process because of the way the
16 stalking has been injected. Now, obviously true
17 stalking by some creepy person who saw you at
18 the gym and is now following you around, that's
19 a real problem and I don't think we should
20 ignore it.

21 I'm wondering if a better way to handle
22 purely stalking without intimate partner
23 connections going on is to put that in a
24 separate type of proceeding so that these family
25 court cases don't get bogged down with the

1 stalking cases, because our judges are getting
2 really, really cynical when they sit through an
3 hour of a whole bunch of neighbors fighting over
4 something, and then I walk up with my client who
5 is in real danger. They're so burned out after
6 that last hour they don't even want to hear it
7 anymore. So I think we're -- without letting
8 down the stalking victims because it's a very
9 serious matter, I think we need to look at
10 whether these need to be two separate
11 situations.

12 ATTORNEY GENERAL KOSTER: That's a very
13 interesting point.

14 MS. WESSLING: I think it would help
15 the judges out too. The dockets would change
16 dramatically if we did that. Going back to the
17 visitation issue. If paternity has not been
18 established then what we have is the problem
19 where the Court says well, if we don't know that
20 that's dad, we can't issue an order giving mom
21 custody because we don't know that there isn't
22 another dad out there. He's not a party to this
23 case, and we can't make an order that adversely
24 affects his rights which I can understand.

25 Instead could the statute or the judges

1 look at wording such as okay, we're not giving
2 someone custody but we're saying this person
3 doesn't have custody. This is a dangerous
4 person who has been abusive to the adults in the
5 situation. We're not saying she has custody but
6 we're saying he does not. I think that's one
7 way to get around it. It doesn't infringe on
8 anybody else's rights, but the way our forms are
9 set up right now doesn't really include that
10 option, and I think that would make the judges a
11 little more comfortable if we gave them
12 something like that.

13 I would really like to see more
14 emphasis on understanding impact on children of
15 domestic violence because pretty much what we
16 see is okay so it's between mom and dad but he
17 has a right to see the kids. I realize I'm
18 using the she/he language, and I don't mean to
19 offend. Obviously, it works the other way in
20 those cases, but this is what I tend to work
21 with so I fall into those pronouns.

22 I would really like to see that when
23 child orders of protection are involved --
24 because they order a guardian ad litem in those,
25 the attorney for the children. The ABA section

<p style="text-align: right;">Page 246</p> <p>1 of family law has standards for attorneys 2 representing children in family law cases, and 3 the most basic one is that they meet with the 4 child before they come to court. I can't tell 5 you how many times that does not happen, and the 6 immediate approach is let's just work out joint 7 custody. That immediately puts the victim of 8 domestic violence in the category of the problem 9 parent because they have reasons why they think 10 that's not appropriate. And so I would really 11 like to see imbedded somehow into the child 12 order of protection statute requirements that 13 the court voir dire a guardian ad litem prior to 14 them participating as an attorney to make sure 15 they fit these family law standards. 16 I wish I didn't have to say that 17 because there are a lot of good guardian ad 18 litem out there, and they're doing exactly what 19 they should do, but there are also cases where 20 it's seen as I'm not going to get any money out 21 of this, and I'm not educated in domestic 22 violence, and quite frankly the courts want them 23 to mediate. They don't want them to represent 24 the best interest of the child. They want the 25 guardian ad litem to be a mediator, and that's</p>	<p style="text-align: right;">Page 248</p> <p>1 Well, if you haven't heard anything, of course, 2 they aren't taking the abuse seriously because 3 they don't want to talk about that part. They 4 want to figure out how can we exchange the kids 5 so that the parties don't see each other and 6 what's the appropriate amount of child support. 7 Honestly, I believe that the judges 8 feel that they are doing a good thing in that 9 because they're thinking well, she's getting the 10 order of protection so why would there be a 11 problem. So I think their hearts are in the 12 right place because I do -- that is where 13 they're coming from, but they're not getting to 14 the nuance of what's going on here. They're not 15 addressing how that power and control is 16 infiltrating all these parts of their lives, and 17 how it's affecting the kids. 18 I went and spoke at Sanford Brown 19 College the other day and -- about domestic 20 violence, and a young woman raised her hand 21 who's about 20 now and said this happened with 22 my parents. She said they sent me off with my 23 father every other weekend, and it was just 24 awful. He spent the whole time asking me about 25 my mom and talking about how horrible she was.</p>
<p style="text-align: right;">Page 247</p> <p>1 not their role. It's not their role at all. 2 I would like to see some language 3 emphasizing what their role really is because 4 it's not happening on its own that way. And 5 along with that I would like to see in 455.050, 6 again, that if there's a finding that domestic 7 violence has occurred. Right now what's 8 happening in practice is that the person who has 9 alleged the domestic violence and has filed for 10 the order of protection is the one who also 11 bears the burden of proving domestic violence is 12 affecting the children adversely. And I would 13 like to see that flipped. And if the judge has 14 already determined that domestic violence is 15 happening, that burden ought to shift over to 16 the person who's doing the abuse to say this is 17 why visitation won't hurt the children. 18 I say after a finding has been made 19 because I think that that should be the basis 20 for almost everything we're doing here. It 21 seems to come in at the very end. You know, in 22 these order of protection cases we go in and the 23 first thing everyone wants to do is sit down and 24 talk about all right what can we work out so 25 that we don't have to have a hearing on this.</p>	<p style="text-align: right;">Page 249</p> <p>1 And no, he wasn't hitting her but that was a 2 horrible thing to do to a child. 3 I really hope that some of the children 4 who have been in these situations as they grow 5 up are able to start to come forward in 6 testimony to you as well and to others about 7 what their experience was like with the laws 8 that we've been existing under because their 9 perspective has really not been heard very well. 10 And I think that -- I was really glad she was 11 brave enough to raise her hand and say that. I 12 really was. 13 And the final thing that I would like 14 to see in my little list of Top 10 is that 15 recent case law did clarify that guardian ad 16 litem fees are court costs and that a petitioner 17 who files because they do not pay court costs 18 for an order of protection should not have to 19 pay that. Well, because it's in case law not 20 all the judges are aware of that, and especially 21 if the person doesn't have a lawyer they often 22 will get hit with half the GAL fees or something 23 like that. So I think it would be nice if the 24 statute would certify that for our judges 25 because we've already got it in case law.</p>

<p style="text-align: right;">Page 250</p> <p>1 So these are my Top 10. I believe I 2 have included the most important things that 3 people have told me. I won't claim that anyone 4 automatically subscribes to this. So if some 5 legal services attorney says I didn't say to 6 voir dire GAL's then they probably didn't. I 7 have this for you with the statutory sites for 8 each thing that I mentioned. I also have the 9 statutory summary chart of domestic violence 10 civil protective orders nationwide that's 11 produced by the American Bar Association 12 Commission Against Domestic Violence. I didn't 13 know if you already had access to that, but I 14 brought it. 15 ATTORNEY GENERAL KOSTER: I don't know 16 that I've seen that. I'm glad you brought it. 17 Your presentation was excellent. I probably 18 agree with, I don't know, a lot of them. But 19 even the ones that I wasn't ready to jump on 20 board with, all of them were very, to steal your 21 word, nuanced and well thought out and very 22 concrete. 23 Do you have any questions? 24 MS. COBLE: I think what you've 25 identified is indeed one of the biggest issues</p>	<p style="text-align: right;">Page 252</p> <p>1 to have more good ideas than we're going to be 2 able to put in one document. They just are 3 terrific. 4 I thank everybody for their interest 5 and their passion around such an important topic 6 and for the service that so many of you give on 7 a daily basis but don't get recognized for in 8 helping men and women and children across the 9 State of Missouri work through these difficult 10 situations. 11 With that we'll close today's hearing 12 and see you in Kansas City on September 27th. 13 Thank you. 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 251</p> <p>1 that women struggle with around the State, and 2 that is if I can't go there with my kids, I 3 don't want to go. And we seem to reinforce that 4 inadvertently in our systems, and I hope that we 5 can make it right. 6 ATTORNEY GENERAL KOSTER: Jason? 7 MR. LAMB: My question is just again to 8 thank you and to reinforce. I agree with you in 9 your anecdotes. As a former prosecutor and in 10 private practice with a lot of family law, you 11 are exactly right that it forces a terrible 12 choice for a petitioner who can't afford an 13 attorney to go in pro se and go through this 14 process and to fear sending their child to 15 school because the abuser may lawfully come and 16 take the child and then force them back into the 17 home as a way of manipulation as we've heard so 18 often today repeatedly. So thank you for your 19 insight. 20 ATTORNEY GENERAL KOSTER: Well, we've 21 completed about 10 hours of testimony, and the 22 testimony, again, just continues to be very 23 pointed and intelligent and helpful. And I 24 think that there are so many good ideas that are 25 coming out of this that it's -- that we're going</p>	<p style="text-align: right;">Page 253</p> <p>1 C E R T I F I C A T I O N 2 3 I, Susan M. Fiala, Certified Court 4 Reporter, Registered Professional Reporter, 5 within and for the State of Missouri, DO HEREBY 6 CERTIFY that pursuant to notice/agreement, the 7 aforementioned proceedings were held before me 8 at the time and place hereinbefore mentioned, 9 the proceedings were taken in shorthand and 10 later reduced to printing; and said transcript 11 of proceedings is herewith forwarded to the 12 noticing party. 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">_____ Susan M. Fiala Missouri CCR #920, CSR, RPR</p>